

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

United States of America

MJ-18-3091-TUC-JR

vs.

Joshua Joel Pratchard,

June 8, 2018

10:55 a.m.

Defendant.

Tucson, Arizona

OFFICIAL TRANSCRIPT OF PROCEEDINGS

DANGEROUSNESS HEARING

BEFORE THE HONORABLE ERIC J. MARKOVICH
UNITED STATES MAGISTRATE JUDGE

A P P E A R A N C E S

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1 P R O C E E D I N G S

2 THE CLERK: Calling case 18-MJ-3091, United States
3 of America vs. Joshua Joel Pratchard, on for detention
4 hearing.

5 Counsel, please state your appearances.

6 MS. ANDERSON: Beverly Anderson for the United
7 States. Good morning.

8 THE COURT: Good morning.

9 MR. MARBLE: Good morning, Your Honor. Jay Marble
10 appearing with Joshua Pratchard. He's present, in custody,
11 Your Honor.

12 THE COURT: Okay. Good morning to you both.

13 Okay. So we're on for the dangerousness hearing.
14 Looks like the Government has one witness. Is that right?

15 MS. ANDERSON: That's correct.

16 THE COURT: Okay. Mr. Marble, do you think you'll
17 have witnesses?

18 MR. MARBLE: No, but I do have some documents.

19 THE COURT: Okay. I just wanted to make sure -- I'm
20 sorry. Go ahead.

21 MR. MARBLE: Unless -- with one caveat. One of the
22 documents that I have submitted, Your Honor, is a disk which
23 contains some YouTube videos regarding Mr. Pratchard's
24 nonprofit in San Diego. The Government wanted a little
25 additional time. I would have a witness only to lay the

1 foundation to the admission if necessary. I'm not sure that's
2 even necessary at this hearing, but just in case.

3 THE COURT: Okay. All right. I just wanted to
4 check on the rule of exclusion, but it sounds like we don't
5 need to worry about that.

6 So okay. So Ms. Anderson, do you want to call your
7 witness?

8 MS. ANDERSON: Sure. The Government calls Special
9 Agent Ryan McGee.

10 RYAN McGEE, WITNESS, SWORN

11 DIRECT EXAMINATION

12 BY MS. ANDERSON:

13 Q. Sir, could you tell us your name and occupation.

14 A. My name is Ryan McGee. I'm a special agent with the FBI.

15 Q. How long have you been with the FBI?

16 A. A little over six years.

17 Q. Before we talk about what you do at the FBI, could you
18 tell us a little bit about your background, such as your
19 education and your prior employment history.

20 A. Yes, ma'am. I went to undergraduate at Stetson
21 University in DeLand, Florida. I received a B.A. in history
22 and a B.S. in psychology. I then went to grad school at the
23 University of Florida where I received a master's in
24 international relations.

25 After -- after college I went to -- I joined the United

1 States Marine Corps, serving as an officer.

2 Q. And what rank did you ultimately attain in the Marine
3 Corps?

4 A. I was a captain.

5 Q. Now, at some point you were called back to duty to -- to
6 serve again in Afghanistan; is that correct?

7 A. Yes, ma'am. I was recalled back to duty between December
8 2013 and July of 2014.

9 Q. Now, let's go back to your FBI experience and what you do
10 specifically. What unit are you assigned to?

11 A. I'm a member of the joint terrorism task force, NS5, here
12 in Tucson.

13 Q. And what kind of cases do you investigate?

14 A. Mainly domestic terrorism.

15 Q. Do those domestic terrorism investigations include
16 investigations into militia groups?

17 A. Yes, ma'am, they do.

18 Q. Could you explain to us what a militia group is.

19 A. A militia group is essentially an irregular military
20 force. Essentially it's armed civilians that are united by a
21 common ideology.

22 Q. Why is it that militia groups get the attention of the
23 FBI?

24 A. Militia groups get the attention of the FBI due to
25 possible violations of federal laws.

1 Q. Now, we're going to be talking about a specific militia
2 group during this case, and that's the Arizona Border Recon;
3 is that correct?

4 A. Yes, ma'am.

5 Q. Are you familiar with AZBR?

6 A. Yes, ma'am, I am.

7 Q. Could you describe to us a little bit about AZBR and what
8 their philosophy is.

9 A. Arizona Border Recon was formed in 2011. It's run by a
10 gentleman by the name of Tim Foley. Their main issue is
11 illegal immigration along the southern U.S. border.

12 Q. What's their operational goal?

13 A. Their operational goal is to prevent or stop or slow down
14 illegal immigration across the border.

15 Q. Does AZBR have any kind of application process, or can
16 anyone just go and patrol the border with them?

17 A. Yes, ma'am. They -- usually, to join AZBR, you will
18 submit an application online, which is then reviewed by
19 Mr. Foley, at which point he will determine -- he determines
20 if somebody is allowed to come out and join one of their
21 border operations on a probationary basis, to see if they have
22 what Tim Foley requires for people to serve in further border
23 operations.

24 Q. Does Tim Foley and AZBR have any kind of rules or
25 restrictions?

1 A. They do. They publish their rules and regulations
2 online.

3 Q. And what are those?

4 A. They -- essentially they are very specific on what type
5 of weapons can be brought out. Tim Foley does not allow
6 silencers or optics on weapons, and he also is against, in
7 most cases, detaining suspected undocumented immigrants.

8 Q. Now, the FBI has a confidential human source that reports
9 on militia matters in the southwest; is that correct?

10 A. That is correct.

11 Q. In late January of this year and extending into early
12 February of this year, did you receive information from the
13 source regarding an individual by the name of Joshua
14 Pratchard?

15 A. We did.

16 Q. And could you tell us specifically what information you
17 received from the source.

18 A. We received information that Mr. Pratchard was attending
19 one of these operations and became visibly angry at certain
20 moments when he was informed that he was not allowed to have a
21 silencer on his weapon and also that he was not allowed to go
22 hands-on, meaning physically, physically detain or otherwise
23 restrain any suspected undocumented immigrants.

24 Q. So based on your answer, I understand that Mr. Pratchard
25 actually came out to Arizona from San Diego and participated

1 in a border operation; correct?

2 A. That is correct.

3 Q. And where does Mr. Pratchard live?

4 A. Mr. Pratchard lives in San Diego, California.

5 Q. All right. And when was it that Mr. Pratchard
6 participated in the Arizona Border Recon operation?

7 A. He participated in the operation from around January 27th
8 until February 1st of this year.

9 Q. Was that the only time that he participated in a border
10 operation with AZBR?

11 A. Yes, it was.

12 Q. And why is it? Why is it that he only participated that
13 one time?

14 A. From CHS reporting, based on his actions and behavior
15 during the operation, he was not allowed back to attend any
16 further operations.

17 Q. And is that because what you testified previously, that
18 he got angry, he wanted to use different kinds of weapons than
19 what were allowed?

20 Is that correct?

21 A. That's correct.

22 Q. Now, when you received this information from the source
23 about this individual, Mr. Pratchard, that he had come out and
24 that he acted in a certain way that was inappropriate and he
25 was not allowed to participate any longer in the AZBR, what

1 did you do?

2 A. We looked into -- we were given his cell phone number,
3 and then through his cell phone number, we looked into his
4 criminal history.

5 Q. Okay. And let's talk about his criminal history. You've
6 had a chance to review documents that pertain to the
7 defendant's criminal history, have you not?

8 A. I have.

9 Q. Now, first of all, the defendant was convicted in the
10 military system of a crime punishable by imprisonment for a
11 term exceeding one year; is that correct?

12 A. That is correct.

13 Q. Take a look at Government's Exhibit No. 1.

14 A. I have it.

15 Q. Oh, okay. Do you recognize that document?

16 A. Yes, ma'am, I do.

17 Q. You've reviewed it previously, have you not?

18 A. I have.

19 Q. Now, Mr. Pratchard, who is currently the defendant in
20 this case, has a date of birth of 12/10/80.

21 Is that correct?

22 A. That is correct.

23 Q. And his Social Security Number is 546-75-5938?

24 A. That is correct.

25 Q. Now, does that information connect up with the individual

1 that's the subject of Government's Exhibit No. 1?

2 A. It is.

3 Q. So it appears to be the same individual; is that right?

4 A. That is correct.

5 Q. According to the documents in Government's Exhibit No. 1,
6 when did the defendant enlist in the Marines?

7 A. He enlisted in the Marine Corps on April -- I'm sorry --
8 August 10th of 1999.

9 Q. And according to Exhibit 1, the defendant was charged
10 with numerous criminal offenses in the Uniform Code of
11 Military Justice, and he was convicted of some of those
12 offenses; correct?

13 A. Yes, ma'am, he was. He was convicted in a general court-
14 martial under the UCMJ.

15 Q. He was convicted on April 9th of 2002; is that correct?

16 A. That is correct.

17 Q. Based on your review of the documents, what was he
18 convicted of?

19 A. He was convicted of four counts. One was the use of
20 ecstasy, and the other three counts were distribution of
21 ecstasy.

22 Q. And those charges carried a criminal penalty that
23 exceeded one year in custody; correct?

24 A. That is correct.

25 Q. And ultimately Mr. Pratchard, the defendant in our case,

1 was sentenced to imprisonment; correct?

2 A. That is correct.

3 Q. For how long?

4 A. Three years.

5 Q. And that matter was affirmed on appeal on June 15th of
6 2005; correct?

7 A. That is correct.

8 Q. And according to documents in Government's Exhibit No.
9 1, which is the President of the Naval Clemency Board decision
10 letter dated 2/13/03, no clemency was granted to the
11 defendant; correct?

12 A. That is correct.

13 MS. ANDERSON: Government moves for admission of
14 Exhibit No. 1.

15 THE COURT: Any objection?

16 MR. MARBLE: No objection.

17 THE COURT: Okay. Exhibit 1 will be admitted.

18 BY MS. ANDERSON:

19 Q. Now, the defendant has a second felony conviction, does
20 he not?

21 A. He does.

22 Q. Let's take a look at Government's Exhibit No. 2.

23 A. Okay.

24 Q. The defendant was involved in an altercation with another
25 individual on October 13th of 2007; correct?

1 A. That is correct.

2 Q. And you've had a chance to review the documents in
3 Exhibit 2?

4 A. I have.

5 Q. Are the dates of birth and the Social Security Number for
6 the -- for this defendant, Mr. Pratchard, coincide and match
7 with those of the individual listed in Exhibit 2?

8 A. They do.

9 Q. So in other words, Exhibit 2, the documents in Exhibit
10 2, pertain to our defendant, Mr. Pratchard; correct?

11 A. That is correct.

12 Q. Now, you've had a chance to review Exhibit No. 2. Could
13 you describe the altercation for us.

14 A. The altercation took place at we believe an Oktoberfest
15 public gathering. Mr. Pratchard and two of his associates
16 approached -- approached the victim, and he was punched and
17 then fell to the ground, at which time Mr. Pratchard stomped
18 on the victim's face with his foot.

19 Q. And did law enforcement personnel arrive at the scene?

20 A. They did. Law enforcement was the ones that pulled
21 Mr. Pratchard off of the victim.

22 Q. And what did they describe when they pulled Mr. Pratchard
23 off of the victim?

24 A. The victim -- the victim suffered a broken nose, a
25 fractured jaw, and a concussion.

1 Q. Was he laying in a pool of blood?

2 A. He was.

3 Q. Now, the victim was taken to the hospital, was he not?

4 A. He was.

5 Q. And Government's --

6 MR. MARBLE: Your Honor, I'm just going to object at
7 this time. I feel like we need a little more foundation based
8 upon the testimony of this witness to the documents. I'm not
9 sure the foundation of where -- if he did other investigation
10 or if he just based it on the documents.

11 THE COURT: Yeah, okay. Could you just clarify
12 those with the witnesses, Ms. Anderson.

13 MS. ANDERSON: Sure.

14 BY MS. ANDERSON:

15 Q. Now, when we found out that Mr. Pratchard had several
16 felony convictions, we reached out to different law
17 enforcement agencies to obtain records, did we not?

18 A. We did.

19 Q. In fact, the very first page of Government's Exhibit No.
20 2 seems to be a fax page from the United States Park Police
21 from the San Francisco field office; is that correct?

22 A. That is correct.

23 Q. And they were sent to Dean Ross, who is your cocase
24 agent; is that right?

25 A. That is correct.

1 Q. And you've had a chance to look at the documents in
2 Exhibit 2 and compare the dates of birth and other
3 identification factors with our defendant; correct?

4 A. I have.

5 Q. Is there any doubt that Exhibit 2 pertains to our
6 defendant?

7 A. No, ma'am.

8 Q. And again, you've read the statements and -- in the
9 report; correct?

10 A. I have.

11 Q. And defense counsel and the Court has a copy of the
12 reports for their own review, but we also obtained photographs
13 of the victim, did we not?

14 A. We did. They're included in the report.

15 Q. In fact, in advance, the page in advance of the
16 photograph, is another email from one of the investigators
17 from the U.S. Park Police saying, "Attached are copies of the
18 colored pictures related to the case faxed to you earlier this
19 afternoon."

20 Correct?

21 A. Correct.

22 Q. Now, according --

23 MS. ANDERSON: Government moves for admission of
24 Exhibit 2.

25 THE COURT: Mr. Marble?

1 MR. MARBLE: I would object to the admission of the
2 entire Exhibit 2. It contains many things. I would object to
3 the photographs, Your Honor, and I would object to the police
4 -- the police reports and handwritten notes, just for lack of
5 either authenticity or lack of foundation. I think we might
6 be getting into various levels of hearsay with those
7 documents.

8 THE COURT: Okay. The objection will be overruled.
9 Exhibit 2 will be admitted.

10 BY MS. ANDERSON:

11 Q. Let's take a look at Government's Exhibit No. 3.

12 The defendant was ultimately indicted in federal court in
13 the Northern District of California; correct?

14 A. Correct.

15 Q. And that was as a result of the events described in
16 Exhibit 2; is that correct?

17 A. That's correct.

18 Q. And when was Mr. Pratchard indicted in the Northern
19 District of California?

20 A. August 19th of 2008.

21 Q. And that was in CR-08-0553?

22 A. That is correct.

23 Q. And what was the charge that he was indicted on?

24 A. He was charged with one felony count of assault resulting
25 in serious bodily injury.

1 MS. ANDERSON: Government moves for admission of
2 Exhibit 3.

3 MR. MARBLE: No objection.

4 THE COURT: Okay. 3 is admitted as well.

5 BY MS. ANDERSON:

6 Q. Let's take a look at Government's Exhibit No. 4. What is
7 that?

8 A. Exhibit No. 4 is the judgment documentation relating to
9 the case in Northern California.

10 Q. And it reflects that the defendant was convicted on
11 October 21st of 2009 of assault resulting in serious bodily
12 injury; is that correct?

13 A. That is correct.

14 Q. And again, that was a felony; is that right?

15 A. Yes, ma'am.

16 Q. Now, what was his sentence?

17 A. He received a sentence of 36 months probation, as well as
18 slightly under \$20,000 of restitution.

19 Q. He was also ordered to reside for a period of 12 months
20 in a community confinement facility; is that right?

21 A. That's correct.

22 MS. ANDERSON: Government moves for admission of
23 Exhibit 4.

24 MR. MARBLE: No objection.

25 THE COURT: 4 is admitted.

1 BY MS. ANDERSON:

2 Q. Let's take a look at Government's Exhibit No. 5. Have
3 you had a chance to look at those reports?

4 A. One second.

5 Yes, ma'am, I have.

6 Q. And according to Exhibit No. 5, the defendant was
7 arrested for domestic violence on March 9th of 2014; is that
8 correct?

9 A. That is correct.

10 Q. Have you had a chance to review the document,
11 Government's Exhibit No. 5?

12 A. I have.

13 Q. And once again, the document provides a date of birth and
14 other identifying factors for the individual that was
15 arrested; is that correct?

16 A. It does.

17 Q. And that matches with our defendant, does it not?

18 A. It does.

19 Q. Now, you've had a chance to look at the -- at the
20 documents. Could you describe the events as set forth in
21 Exhibit 5.

22 A. Yes, ma'am. The background of this is that --

23 MR. MARBLE: I'm sorry. Your Honor, just for the
24 record, I believe the witness is reading the documents. I
25 think he has to testify by memory or advise us that he can't

1 remember by recollection and needs to refresh his
2 recollection. I don't think he can read the documents into
3 the record, Your Honor.

4 THE COURT: Okay. So if you can testify to what
5 your recollection is, and if you need to refer to your -- the
6 reports to refresh your recollection, just let us know when
7 you're doing that. Okay?

8 THE WITNESS: Yes, sir.

9 THE COURT: Okay. The background -- the background
10 of this is Mr. Pratchard was arrested on March 9th of 2014
11 regarding battery of his current spouse, Melissa Pratchard.

12 Based on -- sir, may I read the victim's statement
13 from the report? I can provide more detail.

14 THE COURT: Sure. So you wouldn't know that
15 statement verbatim?

16 THE WITNESS: No, sir, I would not.

17 THE COURT: Okay. So sure.

18 THE WITNESS: Hold on one second.

19 Essentially I'll just read the statement in its
20 entirety.

21 "We went to church class. Earlier in the class they
22 were talking a lot about marriage. I think that Joshua felt
23 bad after leaving the class because he felt some of the things
24 they were talking about in the class that he was doing.

25 "We got home and Joshua was not talking to me. I

1 grabbed my journal and rode my beach cruiser to the beach. I
2 wrote in my journal for a while and then went back home.

3 "When I got home, Joshua was mad at me. He was
4 upset that I left and I did not stay to comfort him. He then
5 calmed down, hugged me, and apologized. Joshua then started
6 watching television in the living room. I went to the bedroom
7 and started to work on some homework.

8 "A short while later Joshua walked into the room" --
9 "walked into the room screaming at me. He was upset about a
10 text that I had sent him earlier when I left explaining the
11 way I felt about the way he was acting.

12 "He left the house and then came back a short time
13 later. He began throwing things around the house. He
14 collected up several of his pill bottles and walked over to
15 the computer. I began asking him why he was being so mean.

16 "I grabbed one of the pill bottles and threw it at
17 me." I'm not sure what kind of typo that is. "He said it was
18 my Vicodin. The bottle hit me in the arm. Joshua then told
19 me I needed to leave. I told him that this was my house and I
20 was not going to leave.

21 "Joshua then got in my face and told me I had five
22 seconds to leave or he was going to hurt me. Joshua then
23 grabbed me by both of my arms, picked me up, carried me over
24 to the" -- "over to the room and threw me on the bed.

25 "I told him I was calling the police. He said, 'Go

1 ahead, ' and walked away. I don't want to press charges or
2 have him arrested."

3 BY MS. ANDERSON:

4 Q. According -- according to the reports, was the defendant
5 -- the police arrived, did they not?

6 A. They did.

7 Q. And the defendant was arrested for domestic violence;
8 correct?

9 A. The specific charge was battery of a spouse, but yes.

10 MS. ANDERSON: The Government moves for admission of
11 Exhibit No. 5.

12 MR. MARBLE: No objection.

13 THE COURT: 5's admitted.

14 BY MS. ANDERSON:

15 Q. Now, it appears the defendant is a two-time convicted
16 felon; correct?

17 A. That is correct.

18 MR. MARBLE: Objection, Your Honor. That's -- I
19 don't think the witness can make a statement regarding that.

20 THE COURT: Well, he has two felony convictions.

21 THE WITNESS: He does, sir.

22 THE COURT: Okay.

23 BY MS. ANDERSON:

24 Q. Did you check for evidence establishing that
25 Mr. Pratchard had applied for or had a right to possess a

1 firearm restored?

2 A. We did.

3 Q. And did you find any evidence that would indicate he had
4 his right to possess a firearm restored?

5 A. No, ma'am, we did not.

6 Q. That being the case, it appears that the defendant is a
7 prohibited possessor; correct?

8 A. He is.

9 Q. Now, let's go back to the defendant's participation in
10 the Arizona Border Recon. He participated in a border
11 operation only once, which was the end of January of this year
12 to early February of this year; correct?

13 A. That's correct.

14 Q. Now, let's take a look at Government's Exhibit No. 6.
15 Have you had a chance to look at these photographs?

16 A. I have.

17 Q. And could you tell us about these photographs.

18 A. These photographs were taken of Josh Pratchard and other
19 people taking part in the Arizona Border Recon op during the
20 time frame you just specified.

21 Q. Okay. And in each of these four photographs, is the
22 defendant -- does the defendant appear in the photograph?

23 A. He does.

24 Q. And could you describe for us which one is the defendant.

25 A. The first page he is the one second from the right with

1 the -- with the helmet. In the second picture, he is the one
2 on the right. In the third picture, he is the one kneeling on
3 the right of the picture with the helmet. And the last
4 picture, same thing. He's the one kneeling all the way on the
5 right.

6 Q. Now, in each of these photographs, he's got something on
7 top of his helmet; is that right?

8 A. He does.

9 Q. What's that?

10 A. That's a night vision goggle, a PVS-14, I believe.

11 MS. ANDERSON: Government moves for admission of
12 Exhibit No. 6.

13 THE COURT: Any objection?

14 MR. MARBLE: No objection.

15 THE COURT: Okay. 6 is admitted.

16 BY MS. ANDERSON:

17 Q. Where did we get these photographs?

18 A. Mr. Pratchard texted these photographs to the CHS.

19 Q. And that was shortly after he was here in the end of
20 January, beginning of February of this year; correct?

21 A. Yes, ma'am.

22 Q. Now, the defendant continued his relationship with the
23 source despite the fact that the defendant was not allowed to
24 participate in AZBR; correct?

25 A. He did.

1 Q. And according to our records, the defendant and the
2 source had contact on April 9th of this year through April
3 14th of this year and on May 30th through June 1st of this
4 year, when the defendant came to Arizona; is that correct?

5 A. Yes. Those are the dates of contact when the subject
6 traveled to Arizona.

7 Q. However, from April 26th through April 28th of this
8 year, the source traveled to San Diego --

9 A. He did.

10 Q. -- to visit with the defendant; correct?

11 A. Yes, ma'am, he did.

12 Q. And he stayed in his apartment; is that right?

13 A. In the defendant's apartment, yes, ma'am.

14 Q. Now, each time the source and the defendant had contact,
15 an audio or video recording was made of the contact; is that
16 right?

17 A. Of part of the contact, yes, ma'am. The amount of
18 recording is limited by the battery power of the device.

19 Q. So in other words, they had contact for an extended
20 period of time, and the -- and the battery would last for only
21 so long; correct?

22 A. Correct, yes, ma'am.

23 Q. Now, what did we learn generally about the defendant
24 during these visits that the source had with the defendant?

25 A. That the source -- that the defendant was -- possessed

1 firearms, that he manufactured firearms in his residence, that
2 he loaded -- that he manufactured and reloaded his own
3 ammunition, and that he was willing to sell the firearms and
4 ammunition.

5 Q. Now, did it -- and you've read the transcripts, have you
6 not?

7 A. I have.

8 Q. Did it appear that the defendant had a certain
9 sophistication and knowledge about firearms?

10 A. Yes, he did.

11 Q. Could you explain that a little bit more.

12 A. He was very familiar with what's called an 80 percent
13 lower. An 80 percent lower, by the legal definition, it is
14 simply a piece of metal. It's called an 80 percent because,
15 once you drill the two holes within the lower receiver of the
16 firearm, which houses the trigger and it has the magazine
17 well, once you mill those, legally, that is defined as a
18 firearm, which he states, he discusses at length in the
19 recordings.

20 In addition, he's also familiar with normal ammunition
21 and how to make subsonic ammunition.

22 Q. Did he describe to the source how it is that he
23 manufactures these firearms and the ammunition and what kinds
24 of equipment he has back in his apartment?

25 A. He does.

1 Q. And what did he describe it as?

2 A. The equipment?

3 Q. Right.

4 A. The equipment, he said in one of the recordings that he
5 has a full armory set up in his house, basically any weapon
6 you would need to manufacture a firearm.

7 Q. Let's look at Government's Exhibit No. 29, which is
8 portions of transcripts from the electronic monitoring of the
9 conversations between the CHS and the defendant.

10 MS. ANDERSON: And for purposes of Judge and
11 counsel, we have two separate transcripts. One is an audio --
12 a transcript of an audio recording. The second is the
13 transcript of a video recording. And I'll be talking about
14 them in chronological order.

15 BY MS. ANDERSON:

16 Q. The first one was a conversation between the defendant
17 and the CHS on April -- between April 10th of this year and
18 April 14th of this year; is that correct?

19 A. That's correct.

20 Q. And again, that was an audio recording?

21 A. Yes, ma'am. This is an audio recording.

22 Q. You've reviewed this transcript in detail, have you not?

23 A. I have.

24 Q. Let's talk about some of the conversations. I'm not
25 going to go into each and every conversation. I'm just going

1 to be highlighting some of the important -- some of the
2 important conversations.

3 Take a look on page four of the transcript, which, again,
4 is April 10th through April 14th of this year?

5 THE COURT: That's the second transcript?

6 MS. ANDERSON: It is, Your Honor.

7 THE COURT: Okay.

8 MS. ANDERSON: And I apologize. They were put in
9 out of order.

10 THE COURT: That's okay.

11 BY MS. ANDERSON:

12 Q. Specifically, at the bottom of page four, the CHS is
13 talking about ammunition, and the CHS says, "Dude, that's some
14 ammunition. It's hard to fucking find."

15 A. That's correct. The CHS was is referring to subsonic
16 ammunition.

17 Q. Okay. And what does the defendant respond?

18 A. Mr. Pratchard responded, "Yeah. That's why I make mine."

19 MR. MARBLE: Same objection to earlier, Your Honor.
20 I think we need some clarification as to it being read in the
21 record.

22 THE COURT: Okay. Well, I'm not sure there is a way
23 to do it other than reading it into the record.

24 MR. MARBLE: No, it just needs to be clear on the
25 record.

1 THE COURT: Okay. So when you are reading from the
2 transcript, will you just kind of reference that you're not
3 summarizing, you're reading directly from the transcript.

4 THE WITNESS: Yes, sir.

5 MS. ANDERSON: Your Honor, I would ask that we be
6 able to read from the record, since it's the most accurate --

7 THE COURT: You can. You can. It's just -- let's
8 just make clear for the record when we're reading from the
9 transcript as opposed to just a summary.

10 MS. ANDERSON: Okay.

11 THE COURT: Okay.

12 MS. ANDERSON: Will do.

13 BY MS. ANDERSON:

14 Q. All right. The next -- the next entry that I'd like to
15 discuss, and you've gone into this a little bit, the bottom of
16 page seven you've talked about what an 80 is.

17 A. Yes, ma'am.

18 Q. And the CHS asks the defendant, "Was this an 80?" And
19 what did the defendant respond?

20 A. Reading from the transcript, Mr. Pratchard said, "This is
21 an 80. I built that as a nine millimeter. It uses an Uzi
22 clip."

23 Q. And you explained to us before what an 80 is; correct?

24 A. Yes, ma'am.

25 Q. So if I understand correctly, I don't know much about

1 guns, but you can buy a hunk of metal which is referred to as
2 an 80, and then from there, that 80 serves as a base, and then
3 from there you can add components which actually make it a
4 firearm?

5 A. Yes, ma'am. The main two parts of a firearm are the
6 upper receiver and the lower receiver. This -- when he's
7 talking about an 80, he's talking about the lower receiver.

8 Q. Next let's focus on page nine. Under the paragraph
9 7:16 a.m., the CHS asks, quote, "Did you build this one, or is
10 this one that you kind of," and what does Mr. Pratchard
11 respond?

12 A. Reading -- again, reading directly from the transcript,
13 "Yep, built this one too from scratch," and then continues,
14 "Could use oil. As you build -- as you build they get -- they
15 just get addicting, and you can't stop. Can't stop, won't
16 stop, man."

17 Q. Okay. Further down on that same page, which is page
18 nine, the defendant is talking about muzzle velocity; correct?

19 A. Correct.

20 Q. Could you explain to us what he's referring to.

21 Or why don't you read it first and then explain to us
22 what he's referring to.

23 A. Yes, ma'am. Again, I'm reading directly from the
24 transcript. Mr. Pratchard stated -- well, just to give
25 context to the conversation, the CHS is talking -- they're

1 talking about ammunition, and Mr. Pratchard says, "No, it
2 does, but the muzzle velocity on this is about 2600 feet per
3 second, and in order to get it subsonic, you have to get it
4 down below 1200. So when you" -- "when you" -- I think that's
5 another typo -- "So when you do that, you fucking completely
6 take away its range. I mean, you knock it down by two-thirds.
7 "So it's almost not even worth it to make a subsonic 7.62
8 millimeter ammunition where this is almost fucking impossible.
9 It's 33 or 3400 feet per second, and the sound barrier is
10 1200. So you have to get it below the sound barrier.
11 Otherwise, even if you shoot it through the can, as soon as it
12 exits the can, it breaks the sounds barrier, and you hear the
13 crack."

14 What Mr. Pratchard's talking about is he understands the
15 science behind how to make subsonic ammunition. He
16 understands that he has to lessen the amount of gunpowder in
17 the cartridge so when it is fired, that it won't break the
18 sound barrier and will have a lower auditory signature for
19 anybody around to -- that may or may not hear it.

20 Q. What's the significance of that?

21 A. Special operations teams use this -- use this type of
22 ammunition overseas sometimes regarding -- it's a way to limit
23 the ability of anyone around you to hear you. It's not going
24 to completely silence it, of course, but it will diminish --
25 it won't break the sound barrier. The round, when it exits

1 the muzzle, will not break the sound barrier and will,
2 thereby, have a lower auditory signature.

3 Q. Let's look at the bottom of page ten. There is another
4 conversation about the fact that he, Mr. Pratchard, grabbed
5 the wrong rifle before he came out to Arizona.

6 Is that correct?

7 A. Yes, ma'am.

8 Q. Now, prior to that, the defendant had been talking to the
9 source about selling the source a firearm; is that right?

10 A. Correct.

11 Q. And does this entry here refer to that?

12 A. Yes. Basically the CHS and the -- and the defendant had
13 agreed -- the CHS had agreed to purchase a firearm from the
14 defendant. However, when the defendant came out here in
15 April, he claimed to have brought the wrong weapon, which he's
16 referring to here.

17 Reading again from the document, "I accidentally grabbed
18 the AR nine millimeter thinking it was your .300 Blackout."
19 They had originally agreed to purchase -- the CHS had agreed
20 to purchase, the defendant agreed to sell, a .300 Blackout
21 rifle, just a different type of rifle, to the -- to the CHS.

22 And here he's talking about the -- the internal workings
23 of the weapon, saying it's -- the catch system -- an SR-25 is
24 a sniper rifle, and Mr. Pratchard's talking about how he
25 builds the -- he built that weapon from scratch.

1 Q. Now, looking on to page 11, he's talking about milling
2 out the layers.

3 Do you see that?

4 A. I do.

5 Q. Okay. And Mr. Pratchard stated, well, going back to page
6 10, an individual by the name of Dan King questions him.

7 "How? You build them from scratch?" And what did
8 Mr. Pratchard answer on page -- on the top of page one?

9 A. Yes, ma'am. Pratchard responds in the
10 affirmative, "Uh-huh, and mill out the layers."

11 Q. And then did Mr. Pratchard go on to talk about the
12 equipment and how he builds these items, these firearms, in
13 his home?

14 A. He does. He specifically states, again, reading from the
15 document, "I have a jig at home that allows me to mill it out
16 with a router. You put a mill, any mill bit on the
17 router, set the jig in there, and you just put it in a vice
18 and work it back and forth."

19 So what he's describing is manufacturing a firearm.

20 Q. What is this -- what is this milling process? Could you
21 explain that to us.

22 A. He's basically working out the components of the firearm
23 to make it a -- to turn a piece of metal into a functioning
24 firearm.

25 Q. That demonstrates a level of knowledge and

1 sophistication; is that correct?

2 A. It does.

3 Q. Let's look at the next entry on page 11 where they're
4 talking about what the range is of a certain -- of a certain
5 firearm.

6 Is that correct?

7 A. That's correct.

8 Q. What are they talking about? Is that -- could you
9 explain that?

10 A. Mr. Pratchard and the CHS and Mr. King are talking about
11 -- they're asking him, Mr. Pratchard, what the range of the
12 .300 Blackout is, because .300 Blackout ammo doesn't have the
13 same range as 5.5 -- as a standard rifle with standard
14 ammunition. It's used for more -- more close range -- more
15 close range target shooting or otherwise. It's more of a
16 close range. It's not for long range. And he's saying
17 that -- he's saying the range on the .300 Blackout is 150 to
18 200 yards.

19 He goes on to talk about how it has a 10-and-a-half-inch
20 barrel, and one in seven twist or one in eight is talking
21 about how many times the bullet, when it -- after it's fired
22 and traveling down the barrel, how many times it's going to
23 twist, how many times it's going to spin in the barrel. The
24 spinning of the round through the barrel is what gives it its
25 accuracy.

1 And he's also talking about a 10-and-a-half-inch barrel.
2 A 10-and-a-half-inch barrel, any firearm, according to -- the
3 National Firearms Act of 1934 states that any rifle that is
4 under 26 inches in length or has a barrel under 16 inches is
5 considered a short-barreled rifle, otherwise known as an SBR.

6 Q. On the next segment down, the defendant is explaining how
7 he marks all of his -- he describes, "How I mark all of my
8 stuff."

9 Is that correct?

10 A. That's correct.

11 Q. And tell us what he's -- what he's describing here.

12 A. He's talking about how he -- the company that he or the
13 name that he places on some of his firearms is SD Tactical,
14 and he didn't realize that there is an actual SD Tactical in
15 Arizona, so he put "Pacific Beach." He put "SD Tactical
16 Pacific Beach" on his firearms to differentiate that from the
17 SD Tactical in Arizona.

18 Q. Now let's go to page 14 of the same transcript. He's
19 talking about the short-barrel rifles or SBRs; correct?

20 A. That's correct.

21 Q. And could you tell us what -- what he's talking about
22 here in this bottom paragraph.

23 A. If it's all right with you, ma'am, I'll read the
24 transcript and then -- and then just discuss.

25 Q. That's fine.

1 A. Mr. Pratchard says, "That's the other thing that scared
2 me. I thought that. I didn't -- I didn't realize that. I
3 thought that SBRs," short-barrel rifles, "were just a
4 California thing. I didn't know it was nationwide. You're
5 not allowed to carry SBRs.

6 "So when I came out here for the fucking AZBR op, I had
7 that collapsible stock on that. I mean, the thing was only
8 about that long on the .300 Blackout. If any of the border
9 patrol guys had saw me with that thing and happened to just
10 fucking ask a question" -- so he's referencing that if an
11 actual law enforcement agent came into contact with him while
12 he was holding an illegal firearm, that --

13 Q. It wouldn't be good for him?

14 A. That's the -- that's what it seems to imply in the --

15 Q. He's acknowledging that, from what it appears; correct?

16 A. Yes, ma'am.

17 Q. Okay. Let's look at page 17, about a third of the way
18 down. He's talking about purchasing mags; is that right?

19 A. He is.

20 Q. And could you read to us what he's saying and then
21 explain to us what it means.

22 A. Mr. Pratchard's talking about the nine millimeter SBR
23 that he brought out, that he eventually sold to the CHS, that
24 he was talking about, like, the markings on it. "I
25 thought" -- he said, "I thought you didn't want markings."

1 So what is in particular important about this paragraph
2 is that Mr. Pratchard says, "Well, it's not registered,"
3 referring to the firearm, "and the numbers are just arbitrary.
4 In fact, I think it's Melissa's birthday."

5 The serial number on the nine millimeter SBR is SD071082,
6 so he's referring to that he used his wife's birthday as the
7 serial number for the SBR.

8 Q. On page 18, he's talking about a short-barrel rifle; is
9 that correct?

10 A. He is.

11 Q. And in the middle of the page, under 7:45 a.m., can you
12 read to us what he says.

13 A. Yes, ma'am. Again, reading from the transcript,
14 Mr. Pratchard says, "Mainly I put that," referring to the
15 foregrip on the weapon, "on there because the barrel was so
16 short."

17 Mr. Pratchard then goes on to say, "You should see the
18 nine millimeter I built my brother. It's dope. It's a seven-
19 inch barrel. This is a 10-and-a-half."

20 Q. Let's go to page 24 of the transcript, under 11:43 a.m.
21 And once again they're talking about an 80 percent; correct?

22 A. They are.

23 Q. Which you already described for us.

24 And Mr. Pratchard seems to -- he understands the
25 significance of milling out the parts?

1 A. He does.

2 Q. Can you explain that to us.

3 A. Well, Mr. Pratchard understands that an 80 percent that
4 can be purchased, that, as stated before, is simply a hunk of
5 metal. Once you mill it, once you put -- once you drill the
6 holes in it, then that is legally a firearm, and he's showing
7 in this that he understands that, obviously saying:

8 CHS, "And 80 percent is not considered a firearm?"

9 Mr. Pratchard, "It is once you mill it."

10 Q. Let's look at page 28, the very top section.

11 Now, this is during the discussion that the source and
12 the defendant had about selling -- Mr. Pratchard selling the
13 firearm --

14 A. Correct.

15 Q. -- to the source; correct?

16 A. Correct.

17 Q. Okay. And Mr. Pratchard wanted to wait and sell the
18 firearm at the end of his visit when he was leaving.

19 Is that correct?

20 A. That's correct.

21 Q. In the very last portion of the -- of the segment, what
22 does Mr. Pratchard say?

23 A. Mr. Pratchard says -- the CHS is referring to the people
24 that he stays with aren't going to care that there is another
25 weapon in the house, and Mr. Pratchard says, again, reading

1 from the transcript, "I ain't worried about them. I'm worried
2 about your fucking -- all your sheriffs and fucking federal
3 law enforcement friends."

4 Q. Let's turn to page 31, under the segment labeled
5 8:10 a.m.

6 A. Yes, ma'am.

7 Q. And they're talking about coordinates, terrain locations,
8 and where they plan on going; is that correct?

9 A. That's correct. They were going to conduct a border
10 operation, essentially, between the CHS and the -- and
11 Mr. Pratchard.

12 Q. Okay. And they talk about where they're going to go, and
13 what does -- what does Mr. Pratchard say about running into
14 rip crews?

15 A. Mr. Pratchard, reading from the document, says, "Does
16 this mean we get to engage rip crews?"

17 And rip crews are essentially people in the desert that
18 steal firearms -- that steal drugs or cash loads from
19 suspected undocumented immigrants coming across the border.

20 Q. And looking at page 32, at the very top, the CHS responds
21 with what?

22 A. CHS responds, reading from the document, "More than
23 likely. Not looking forward to it."

24 Q. And what does the defendant respond?

25 A. The defendant responds, "I am."

1 Q. Continuing down to 8:11 a.m., what does the CHS say?

2 A. CHS states, "Yeah, you think that. Shit gets real real
3 quick."

4 Q. And what does the defendant respond?

5 A. Mr. Pratchard responds, again, reading from the
6 document, "I'm looking forward to it. I want to do it. I
7 want to do it."

8 Q. Referring to engaging with a rip crew?

9 A. Correct.

10 Q. All right. Let's look at the video recording, and this
11 is a transcript from the video recording, and the dates for
12 this are April 26th through April 28th of this year; is that
13 correct?

14 A. That is correct.

15 Q. And let's look at page three of that transcript. And the
16 segment I'm referring you to is after 17:22 p.m.

17 A. Yes, ma'am. I see it.

18 Q. Okay. And the defendant -- the defendant is talking
19 about the number of rifles that he -- that he could make;
20 correct?

21 A. Yes, ma'am.

22 Q. What does he say?

23 A. Mr. Pratchard asked the CHS, "Do you know how many
24 Blackout rifles you could buy if you stop smoking?"

25 And the CHS responds, "As many as you can make."

1 And Mr. Pratchard responds, "Exactly."

2 Q. Now, the final transcript, the final segment I'm going to
3 call your attention to, is on page five.

4 A. Yes, ma'am.

5 Q. And it's at 8:15 a.m., and the defendant is talking to
6 his dog; is that correct?

7 A. That's correct.

8 Q. And so I take it this was in San Diego?

9 A. Yes, ma'am, it was.

10 Q. And what did the defendant say?

11 A. The defendant was speaking to his dog, and he
12 specifically says, reading from the document, "Who's that? Go
13 get him. Go get him. Go get that Mexican."

14 MS. ANDERSON: Government moves to admit Exhibit No.
15 29, which is the transcripts.

16 MR. MARBLE: Clarification, Your Honor.

17 THE COURT: Yes.

18 MR. MARBLE: May I ask -- may I voir dire the
19 witness?

20 THE COURT: Sure.

21 VOIR DIRE EXAMINATION

22 BY MR. MARBLE:

23 Q. Agent McGee, is this transcript complete, or is it
24 segments of the audio and video?

25 A. This is the -- this is the entire transcript, sir. The

1 audio and video are -- it's difficult to determine when they
2 shut off and when they don't. The CHS can turn a recorder on
3 and turn a recorder off, but in between that time, for an
4 unknown reason, sometimes it cuts out, and then it'll start
5 again.

6 So what we transcribe is all of the data that we received
7 from that.

8 Q. So this -- these conversations may be incomplete, but
9 what's transcribed is everything that was recorded?

10 A. That's correct, sir.

11 MR. MARBLE: Okay. No objection.

12 THE COURT: Okay. So that is, what, 29?

13 MS. ANDERSON: 29.

14 FURTHER DIRECT EXAMINATION

15 BY MS. ANDERSON:

16 Q. Let's take a look at Government's Exhibit No. 7. Do you
17 recognize what's shown in the photo?

18 A. Yes, ma'am, I do.

19 Q. And what is that?

20 A. This is nine millimeter SBR that the defendant sold to
21 the CHS on April 14th of this year.

22 Q. Now, you say SBR. That's a short-barrel rifle?

23 A. Yes, ma'am, it is.

24 Q. And did you measure or --

25 A. Yes, ma'am, we measured it.

1 Q. And what was the length?

2 A. The length of the barrel was approximately 10-and-a-half
3 inches.

4 Q. And this was sold to the CHS for \$3,000; is that correct?

5 A. That's correct.

6 MS. ANDERSON: Government moves for admission of
7 Exhibit 7.

8 MR. MARBLE: No objection.

9 THE COURT: 7's admitted.

10 BY MS. ANDERSON:

11 Q. Let's take a look at Government's Exhibit No. 28.

12 We had talked previously that the CHS traveled to San
13 Diego between April 26th and April 28th of this year to visit
14 the defendant; is that correct?

15 A. Yes, ma'am, that's correct.

16 Q. And during that time, he stayed at his home; is that
17 right?

18 A. That's correct, ma'am.

19 Q. And at some point in time the defendant showed the source
20 the closet where he manufactures all these firearms and
21 ammunition; is that correct?

22 A. Yes, ma'am, he did.

23 Q. And so let's talk about it. Are these the photos that
24 were taken from the -- from the defendant's closet in San
25 Diego?

1 A. Yes, ma'am, they are.

2 Q. Let's talk about the photos one by one.

3 A. Yes, ma'am. The first photo shows a press for making
4 ammunition. The gray substance in the tube at the top of
5 this, that's gun powder, smokeless gunpowder, and this is what
6 Mr. Pratchard is believed to have used when he was creating --
7 when he makes ammo, this is the machine that he uses.

8 You can also see in the background there is sets of ear
9 protection, as well as ammo cans on the top shelf delineating
10 which type of ammunition the -- which type of ammunition is
11 stored in each of those containers.

12 Q. That's the first picture. What's in the second picture?

13 A. The second picture appears to be -- there is a can
14 labeled, "Ammo Crate." There is also additional ammo cans,
15 which this is -- this is a picture from above the press for
16 the ammunition.

17 Q. And the next photo?

18 A. The third photo is a more closeup shot of the -- the more
19 centered shot of the ammunition on top of the shelf. There is
20 also another safe or some sort of storage unit in the bottom
21 right, which has additional ammunition in it.

22 Q. And finally, the last photo.

23 A. The last photo is the safe in which Mr. Pratchard keeps
24 his firearms.

25 Q. In San Diego?

1 A. That's correct.

2 MS. ANDERSON: Government moves for admission of
3 Exhibit No. 28, which is the four photos.

4 MR. MARBLE: No objection.

5 THE COURT: Okay. 28's admitted.

6 BY MS. ANDERSON:

7 Q. Now, do we have information that Mr. Pratchard knows the
8 combination to the safe --

9 A. We do.

10 Q. -- in San Diego?

11 And what is that?

12 A. I believe the safe combination is 120107.

13 Q. And I'm sorry. We have information that Mr. Pratchard
14 knows that combination; correct?

15 A. He does.

16 Q. And how do we know that?

17 A. Mr. Pratchard communicated that information to his wife
18 while he was in Arizona.

19 Q. Let's look at Exhibit No. 8.

20 A. Yes, ma'am.

21 Q. Are you familiar with what's shown in Exhibit 8?

22 A. Yes, ma'am, I am.

23 Q. What is it?

24 A. This is a short-barreled rifle with a silencer and
25 400-plus rounds of ammunition.

1 Q. Okay. And what's the significance of what's shown here
2 in the photo?

3 A. Significance of this photo is that neither the short-
4 barreled rifle or the suppressor are serialized. This is the
5 item -- and this is .300 Blackout ammunition that the
6 defendant produced and sold to -- he sold everything you're
7 seeing in this picture to the CHS for \$3,800.

8 Q. Now, did any of the firearms that Mr. Pratchard sold to
9 the CHS or had in his vehicle at the time of his arrest have
10 serial numbers?

11 A. One, the initial short-barreled rifle, that was the nine
12 millimeter that was sold on April 14th, was serialized.
13 However, when we -- part of the evidentiary process in the FBI
14 is you have to run an ATF trace on the these -- on these
15 weapons to determine if they're legal or if they're stolen or
16 what have you. So we submitted this to the ATF, and the
17 result was it came back as invalid, meaning that that weapon
18 was never properly registered.

19 In addition the -- one of the pistols that was -- excuse
20 me. One of the pistols or the pistol that was found in his
21 vehicle was serialized. However, we have not gotten the
22 report back from the Bureau of Alcohol, Tobacco, and Firearms
23 as to whether or not that weapon is -- is a legal weapon. It
24 has the same markings on it, SD Tactical Pacific Beach,
25 California, SD, and then the six digit number on it, but we

1 don't have those yet.

2 The other two rifles that were found in the bed, in the
3 lock box of Mr. Pratchard's vehicle, neither of them are
4 serialized, so we can't run a trace on them -- on them.

5 Q. Now, Mr. Pratchard was arrested on June 1st of this year;
6 is that correct?

7 A. He was.

8 Q. And he was arrested according to an arrest warrant, and
9 we had a search warrant for his vehicle; correct?

10 A. That's correct.

11 Q. Where was he arrested?

12 A. He was arrested at Casino Del Sol.

13 Q. And approximately what time?

14 A. Approximately 8:45 in the morning on June 1st.

15 Q. What vehicle was Mr. Pratchard driving prior to his
16 arrest?

17 A. Mr. Pratchard was driving a 2018 Ford F150 white
18 four-door.

19 Q. Mr. Pratchard had come out to Arizona a couple of times
20 prior to his arrest; is that right?

21 A. That is correct.

22 Q. Had he driven that vehicle on other occasion when he has
23 traveled to Arizona?

24 A. When he came out on -- in April, he drove this same
25 truck.

1 Q. Let's talk about what was found during the course of the
2 search warrant. Take a look at -- well, before I ask
3 you, before we get into details and talk about each of the
4 items individually, how many -- how many firearms overall were
5 found in the defendant's vehicle when he was arrested and the
6 search warrant was executed?

7 A. Three firearms were found in his vehicle, one pistol, one
8 short-barreled rifle, and one standard rifle.

9 Q. And how many live rounds were found in the defendant's
10 vehicle during the search warrant?

11 A. 290.

12 Q. 290 rounds. And those were different calibers and for
13 different kinds of firearms; is that correct?

14 A. Yes, ma'am.

15 Q. Let's look at Government's Exhibit No. -- No. 10, 11, and
16 12. I'm sorry. 9, 10, 11, and 12.

17 THE COURT: Did you want to move the admission of
18 Exhibit 8?

19 MS. ANDERSON: Yes.

20 THE COURT: Okay.

21 MS. ANDERSON: Yes. Thank you, Your Honor. The
22 Government so moves.

23 THE COURT: Any objection, Mr. Marble? This is the
24 photograph of the other firearm and ammunition.

25 MR. MARBLE: No objection.

1 THE COURT: Okay. 8's admitted.

2 A. I see them, ma'am.

3 Q. Okay. We're talking about -- well, what's depicted in
4 Exhibit No. 9 and Exhibit No. 10?

5 A. Exhibit No. 9 and 10 are the vehicle, both the vehicle
6 that Mr. Pratchard drove out to California -- or drove out to
7 Arizona from California.

8 Q. And that's the vehicle that you described for us; is that
9 correct?

10 A. Yes, ma'am, that's correct.

11 Q. And in Government's Exhibit 10, we see an unusual sort of
12 -- it's not a license plate, is it?

13 A. No, it is not.

14 Q. It's something other -- in fact, if you looked at
15 Government's Exhibit No. 11, we'll see a license plate and
16 then another plate below it; correct?

17 A. Yes, ma'am, that's correct.

18 Q. Where were the -- where was the top one found, the top
19 plate?

20 A. I believe the top one was found in the vehicle, ma'am.

21 MS. ANDERSON: Government moves for admission of
22 Exhibits 9, 10, and 11.

23 MR. MARBLE: No objection.

24 THE COURT: All right. 9, 10, and 11 are admitted.

25 BY MS. ANDERSON:

1 Q. Let's look at Exhibits 12 and 13. What's shown in those
2 exhibits?

3 A. 12 and 13 are -- excuse me. 12 and 13 are the same item.
4 They're two fully loaded .45 caliber magazines, pistol
5 magazines, that were found in the rear right quadrant of
6 Mr. Pratchard's vehicle.

7 Q. The pickup truck that he was driving; correct?

8 A. Yes, ma'am.

9 MS. ANDERSON: Government moves for admission of
10 Exhibits 12 and 13.

11 THE COURT: Any objection, Mr. Marble?

12 MR. MARBLE: No objection.

13 THE COURT: 12 and 13 are admitted.

14 BY MS. ANDERSON:

15 Q. Let's look at Exhibits 14, 15, 16, and 17, since they are
16 all related.

17 First of all, could you tell us, what's Government's
18 Exhibit No. 14? What's shown there?

19 A. Government's Exhibit 14 is a .45 caliber pistol in a
20 tactical drop holster.

21 Q. Okay. And what's shown in 15, 16, and 17?

22 A. 15, 16, and 17 are all of the -- this is the pistol that
23 was within the drop holster that was found in the -- the lock
24 box of Mr. Pratchard's vehicle.

25 MS. ANDERSON: Government moves for admission of

1 Exhibits 14 through 17.

2 THE COURT: Any objection?

3 MR. MARBLE: No objection.

4 THE COURT: All right. 14 through 17 are admitted.

5 BY MS. ANDERSON:

6 Q. Looking at the -- at the inscription, the "SD Tactical
7 Pacific Beach, California," have you found a business called
8 SD Tactical?

9 A. There is an SD Tactical, but the only one we found was in
10 Arizona.

11 Q. It's not Pacific Beach?

12 A. No, ma'am.

13 Q. Does this appear to be something that Mr. Pratchard would
14 have placed on the firearm himself?

15 MR. MARBLE: Objection. Calls for speculation, Your
16 Honor.

17 THE COURT: Yeah, sustained.

18 Are we looking at Exhibit 16?

19 MS. ANDERSON: We are.

20 THE COURT: Okay.

21 MS. ANDERSON: I'll withdraw that question.

22 BY MS. ANDERSON:

23 Q. Let's look at 18 and 19. What's depicted there in 18?

24 A. This is a vest. It's a plate carrier found in
25 Mr. Pratchard's vehicle.

1 Q. And what was contained in Government's Exhibit 17? Was
2 that the --

3 A. Government -- Exhibit 17 is the drop holster in which the
4 pistol, the .45 caliber pistol, was found. The magazine and
5 loose round are due to the fact that when the -- per FBI
6 procedure in clearing firearms, the way you -- the way you
7 clear a firearm is obviously you point in a safe direction
8 first, in which case you eject the magazine.

9 The magazine contained nine rounds. You then remove --
10 pull the slide back, and the -- if a round is chambered,
11 meaning it's in the barrel, ready to fire, then that round
12 will pop out.

13 So that means that this handgun was loaded and chambered
14 when it was found.

15 MS. ANDERSON: Government moves for Exhibit 17, if I
16 haven't done so already.

17 THE COURT: Yeah, that's already in.

18 MS. ANDERSON: Okay.

19 BY MS. ANDERSON:

20 Q. Let's look at Exhibits 18 and 19. First of all, could
21 you describe for us what's shown in Exhibit 18.

22 A. Exhibit 18 is a tactical vest. It's a plate carrier that
23 is able to contain -- able to hold various ammunition and
24 other -- it's designed to hold ammunition and other things you
25 would usually use in a tactical environment.

1 Q. What's shown in Exhibit 19?

2 A. Exhibit 19 shows all the items that were within the
3 tactical vest that was found in Mr. Pratchard's vehicle.
4 There are two fully loaded .45 caliber pistol magazines, as
5 well as three -- three rifle magazines, a GPS and a
6 tourniquet, as well as bullet-resistant plates that are
7 inserted into the vest.

8 Q. You said bullet-resistant plates?

9 A. Yes, ma'am.

10 MS. ANDERSON: Government moves for admission of
11 Exhibits 18 and 19.

12 MR. MARBLE: No objection.

13 THE COURT: 18 and 19 are admitted.

14 BY MS. ANDERSON:

15 Q. Let's take a look at Government's Exhibits 20 through 26.

16 Starting with Government's Exhibit No. 20, are you
17 familiar with what's shown here in the photograph?

18 A. Yes, ma'am.

19 Q. Could you describe that for us.

20 A. This is the lock box in which all three of the weapons
21 that were found in Mr. Pratchard's vehicle were found. It was
22 locked when we -- when we executed the search warrant on the
23 vehicle.

24 Q. And did the defendant have the keys in his possession?

25 A. He did.

1 Q. And you were able to unlock the box?

2 A. We were.

3 Q. Looking at Government's Exhibit No. 21, could you explain
4 to us what that is.

5 A. Number 21 is the soft rifle case that was contained in
6 the lock box in Mr. Pratchard's vehicle.

7 Q. Were there any firearms in that soft case?

8 A. Yes, ma'am, there were. There were two firearms.

9 Q. Look at Government's Exhibit No. -- well, 21, we're able
10 to see one firearm in there; correct?

11 A. That's correct.

12 Q. And Exhibit No. 22, we're able to see a second firearm in
13 there; is that correct?

14 A. Yes, ma'am, that's correct.

15 MS. ANDERSON: Government moves for admission of
16 Exhibits 20, 21, and 22.

17 MR. MARBLE: No objection.

18 THE COURT: Those are admitted.

19 BY MS. ANDERSON:

20 Q. Let's look at Government's Exhibits 23 through 26.

21 Could you explain to us what Government's Exhibit 23
22 shows.

23 A. Exhibit 23 is one of the two rifles removed from
24 Mr. Pratchard's vehicle.

25 Q. What kind of rifle was this?

1 A. This is a -- this is a standard -- a standard rifle.
2 It's not a short-barreled rifle, due to the fact that the
3 barrel is beyond 16 inches in length. However, it is
4 unserialized.

5 Q. Next is Government's Exhibit No. 24. Take a look at
6 that.

7 What's shown there?

8 A. This is the other rifle taken from Mr. Pratchard's
9 vehicle.

10 Q. And could you describe that for us.

11 A. This is a short-barreled rifle, due to the fact that
12 barrel length is under -- excuse me -- is under 16 inches. It
13 has a suppressor, as well as an ACOG, which stands for
14 advanced combat optical gunsight, and a collapsible --
15 collapsible stock. It is also unserialized.

16 Q. Now, you said it has a suppressor. Is that also referred
17 to as a silencer?

18 A. Yes, ma'am. They're synonymous.

19 Q. Could you explain to us what a silencer is.

20 A. A silencer is a -- it's an accessory to a firearm that is
21 placed on the end of a barrel, and what it does is it -- it
22 has baffling inside of it so it reduces the auditory signature
23 of a round when it comes out of the -- when it comes out of
24 the barrel.

25 Q. Are those prohibited?

1 A. They are -- there are very strict rules that govern the
2 use of firearms. Currently 42 states you're legally allowed
3 to own -- you're legally allowed to own suppressors.
4 California is not one of those states. Arizona is.

5 Q. Are they regulated by ATF?

6 A. Yes, they are. They're also supposed to be serialized.
7 This one is not.

8 Q. Let's take a look at Government's Exhibit No. 25.

9 A. Yes, ma'am.

10 Q. Could you describe what you see in that photo.

11 A. This is the same -- the same rifle, just a different
12 picture of it.

13 Q. Okay. And finally Exhibit 26.

14 A. Exhibit 26 is a close-up of the exhibit, Exhibit 25. It
15 just shows that this rifle is chambered for .300 Blackout
16 ammunition.

17 MS. ANDERSON: Government moves for admission of
18 Exhibit 23 through 26.

19 MR. MARBLE: No objection.

20 THE COURT: Are Exhibits 23 through 26 the two
21 rifles that were in that soft case?

22 THE WITNESS: Yes, sir.

23 THE COURT: Okay. Thank you.

24 Okay. So 23 through 26 are admitted.

25 BY MS. ANDERSON:

1 Q. Let's look at Government's Exhibit No. 27.

2 Do you recognize what's shown here?

3 A. Yes, ma'am.

4 Q. What is that?

5 A. This is the case that these rifles were found in.

6 Q. And we also see some magazines up above; is that right?

7 A. That's correct, ma'am.

8 Q. How many magazines?

9 A. There are six magazines in this picture.

10 Q. And were they fully loaded?

11 A. The -- I don't remember the exact round count, but at
12 least -- they had a large quantity of ammunition in these.

13 MS. ANDERSON: Government moves for admission of
14 Exhibit 27.

15 MR. MARBLE: No objection.

16 THE COURT: 27's admitted.

17 BY MS. ANDERSON:

18 Q. So at the same time that the defendant was arrested here
19 in Arizona, there was a search warrant that was conducted at
20 the defendant's home in San Diego; is that correct?

21 A. That's correct.

22 Q. And that was done with the assistance of federal law
23 enforcement in San Diego?

24 A. That's correct.

25 Q. And again, once again, a search warrant was obtained by a

1 magistrate in San Diego; is that right?

2 A. Yes, ma'am.

3 Q. Now, let's talk about some of the things that were found
4 in the defendant's home when the search warrant was executed
5 on June 1st.

6 Do you know how many firearms were seized from the
7 defendant's home on June 1st?

8 A. Eight firearms were seized on June 1st.

9 Q. Do you know how much ammunition was seized from the
10 defendant's home?

11 A. No, ma'am. I don't have an exact count of the amount of
12 ammunition, but according to -- speaking to the people who
13 executed the search warrant, there is a large quantity of
14 ammunition.

15 Q. Take a look at Government's Exhibit No. 30. Do you
16 recognize that?

17 A. Yes, ma'am.

18 Q. And what do you recognize this as being?

19 A. This is an evidence recovery log of all the things seized
20 from the San Diego apartment.

21 MS. ANDERSON: Government moves for admission of
22 Exhibit 30.

23 THE COURT: Any objection?

24 MR. MARBLE: No objection.

25 THE COURT: 30 is admitted.

1 MS. ANDERSON: Judge, may I have just a moment to
2 check my notes?

3 THE COURT: Sure.

4 MS. ANDERSON: Let me just check my notes, Your
5 Honor.

6 THE COURT: Sure.

7 MS. ANDERSON: I believe I'm done.

8 THE WITNESS: Ma'am, would you like me to speak
9 about any specific items in the --

10 MR. MARBLE: Objection, Your Honor. I don't think
11 the witness --

12 THE COURT: Ms. Anderson will ask you if she has any
13 questions.

14 THE WITNESS: Roger that. Yes, sir.

15 BY MS. ANDERSON:

16 Q. Turning to Government's Exhibit No. 30, again, this is
17 the property, the evidence recovery log from the San Diego
18 search warrant; correct?

19 A. It is.

20 Q. Is there anything noteworthy regarding the items that
21 were seized?

22 A. There's two -- there is a few items of note. Outside of
23 the eight firearms that were seized, there were six containers
24 of black -- black powder, which is what would be used to
25 reload ammunition. There is also a press, a reloading

1 press, Item 19. There is also jig parts.

2 There is essentially, what he stated, there's --
3 everything you would need to create a firearm is in -- or the
4 vast majority of it is located in this apartment and was
5 seized.

6 Q. In fact, at one point the defendant told the CHS that his
7 equipment is similar to that of an armorer; correct?

8 A. Yes, that's correct.

9 Q. And based on the photos that we saw from the CS's trip to
10 San Diego and what was seen described here, that appears to be
11 true; correct?

12 A. That's correct.

13 MS. ANDERSON: That's all I have, Judge.

14 THE COURT: Okay. So let's take our lunch recess.
15 We'll come back at 3:15. We'll be in this courtroom. I was
16 wrong when I advised you guys it would be the courtroom after
17 initial appearances. It's just easier to come back here at
18 3:15.

19 If you -- I'm hoping to be done with initial
20 appearances by 3:15 if you all want to come a little earlier
21 in the event I am. If I'm not done by 3:15, you'll have to
22 wait a bit, but it kind of depends on the length of that
23 calendar. So we'll come back at 3:15, give or take, and
24 Mr. Marble, you'll do your cross-examination.

25 Okay? All right. Thank you, everybody. Thank

1 you, Agent.

2 (Off the record from 11:59 a.m. to 3:31 p.m.)

3 THE CLERK: Back on the record in 18-MJ-3091, United
4 States of America vs. Joshua Joel Pratchard, on for detention
5 hearing.

6 Counsel, please restate your appearances.

7 MS. ANDERSON: Beverly Anderson for the United
8 States. Good afternoon.

9 THE COURT: Good afternoon.

10 MR. MARBLE: Good afternoon, Your Honor. Jay Marble
11 for Joshua Pratchard. He's present, in custody.

12 THE COURT: Okay. Good afternoon to you both.

13 So Agent McGee, do you want to come back up to the
14 stand?

15 And then, Mr. Marble, you can do your cross-
16 examination.

17 CROSS-EXAMINATION

18 BY MR. MARBLE:

19 Q. Good afternoon.

20 A. Good afternoon, sir.

21 Q. I'm going to try and maybe go backwards or in the same
22 reverse order as direct, so I'm going to ask you first about
23 the Arizona Border Recon.

24 A. Okay.

25 Q. So you told us on direct examination that you've studied

1 in general militia border groups?

2 A. I have.

3 Q. And in particular, you've studied the Arizona Border
4 Recon group?

5 A. I know -- I'm familiar with them. I don't -- I don't
6 know the inner workings of them, but yes.

7 Q. You know Tim Foley is the supervisor of that group?

8 A. I do, yes.

9 Q. And it sounds like you have some people who have
10 infiltrated that group as well?

11 A. We have sources that have reported on that group.

12 Q. And you're aware that to be -- to participate with
13 Arizona Border Recon, that you have an application process?

14 A. Usually, yes, sir.

15 Q. And Joshua Pritchard, Pratchard, excuse me, filled out an
16 application that was accepted by them?

17 A. I'm not sure. I haven't spoken to Mr. Foley about that
18 particular application.

19 Q. It's unlikely that he would have been invited there if he
20 hadn't passed their checks. Wouldn't you agree with that?

21 A. I would, yes.

22 Q. And they are heavily armed; correct?

23 A. When you say "checks," what are you referring to, sir?

24 Q. Their application process.

25 A. Okay. Yes, sir.

1 Q. And are you aware if they actually run a background check
2 on individuals?

3 A. No, I'm not.

4 Q. Okay. So it's possible that actually the Arizona Border
5 Recon ran a background check on Joshua Pratchard?

6 A. It's possible, yes, sir.

7 Q. And they might be inclined to do that since most of the
8 people who are there, are there on the missions, are armed?

9 A. (No verbal response.)

10 Q. I can ask it a different way.

11 A. Okay. Yes, sir.

12 Q. So they wouldn't want publicity getting out that they are
13 having people participate in their activities who aren't
14 supposed to possess weapons. Wouldn't you agree that would be
15 bad press?

16 A. Yes, I would, sir.

17 Q. So in your -- would you agree that they'd probably screen
18 out -- screen out people who they don't want to participate?

19 MS. ANDERSON: Objection. Foundation.

20 THE COURT: Well, I guess if you know.

21 A. Could you repeat the question, sir?

22 Q. Sure. They'd want to screen out people who don't pass
23 their -- who they don't want to participate in their
24 activities?

25 A. Yes, sir.

1 Q. Because they don't want just anybody going down there and
2 participating?

3 MS. ANDERSON: Objection. Foundation.

4 THE COURT: Well, if he has information -- if you're
5 speculating, don't speculate.

6 THE WITNESS: Okay. Yes, sir.

7 THE COURT: If you know, then testify to it.

8 A. I'm not familiar with the exact application process of
9 Arizona Border Recon.

10 Q. But -- but just to backtrack, Mr. Pratchard passed their
11 check and participated in activity in January with them?

12 A. I don't know if there was any kind of legal check done on
13 Mr. Pratchard. I know that he participated in an event. I
14 just can't verify whether or not any background checks were
15 run on Mr. Pratchard prior to his involvement.

16 Q. So I understand that, but he passed their application
17 process to participate. Would you agree with that?

18 MS. ANDERSON: Objection. Lack of foundation.
19 Speculation. I believe the witness has already answered he
20 doesn't know if he did or if he did not.

21 THE COURT: I think he did. I think he
22 has, Mr. Marble.

23 MR. MARBLE: I'll move on.

24 THE COURT: I don't think he knows.

25 BY MR. MARBLE:

1 Q. So moving on to the court-martial, would you agree with
2 me that military courts don't use the terms "felonies" or
3 "misdemeanors?"

4 A. I'm not sure. I've never been subject or involved in a
5 court-martial.

6 Q. You -- on direct examination you termed his conviction
7 from the court-martial as a felony.

8 A. I did based on we have a task force officer who is an
9 NCIS agent who told me that a conviction in general court-
10 martial is the equivalent of a felony.

11 Q. Okay. But -- but for our purposes, under the military
12 code, they're not termed "misdemeanors" or "felonies."

13 A. I would assume not. I don't know.

14 Q. So that was just information that was provided to you and
15 unverified?

16 A. It was verified through an NCIS agent, so I took him at
17 his word regarding the equivalency matter.

18 Q. But you did not investigate the military code?

19 A. Not to the -- not specifically to felonies and
20 misdemeanors and their equivalent, no.

21 Q. And you're also aware, or are you aware, that the
22 military branch must -- the particular military branch
23 involved in the court-martial must report that conviction to
24 law enforcement?

25 A. I didn't know that, but I assume that's accurate.

1 Q. And are you aware that that's not always done?

2 A. Yes.

3 Q. Are you also aware that, when Mr. Pratchard was on -- was
4 on -- serving his term of the sentence, he was paroled off
5 early because of the work that he did through the military?

6 A. I am.

7 Q. And that was because -- are you aware that that's because
8 he went around to other groups of military members and told
9 them about the mistakes he'd made when he was -- the cause of
10 this court-martial?

11 A. No, sir, I'm not aware of that. I know that he was
12 released early, but I don't know. I didn't know the specifics
13 as to why.

14 Q. And are you aware that it's unusual for people to be
15 released early off their sentence?

16 A. I am not. No, sir.

17 Q. I'd like to ask you some questions now about the Presidio
18 incident in San Francisco. You mentioned you believe that
19 occurred at an Oktoberfest festival?

20 A. Yes.

21 Q. And are you aware that Mr. Pratchard was defending a
22 friend of his?

23 A. No, I was not.

24 Q. And there was -- it was actually a pretty large fight.
25 It wasn't just an isolated incident.

1 A. I was not aware of that.

2 Q. Are you also aware -- have you seen -- have you
3 personally seen the video that was referred -- that you
4 referred to earlier regarding that incident?

5 A. No.

6 Q. So you were just making a reference on somebody else's
7 comment on the video?

8 A. From the police report. My knowledge of the incident is
9 directly from the police report.

10 Q. Very well. And in that case, you describe the injuries
11 and also the pictures of the victim; correct?

12 A. Correct.

13 Q. And you're aware that Mr. Pratchard received a sentence
14 of probation for that offense?

15 A. Yes.

16 Q. With -- obviously with some community confinement?

17 A. Correct.

18 Q. Now, do you have the exhibits with you up there?

19 A. I do.

20 Q. Okay. I'd like to ask you to refer to Exhibit 5. I'll
21 ask you the question. If you're unable to recall, please feel
22 free to let us know.

23 In that domestic violence case in San Diego, you're aware
24 that, when the police officers arrived on scene, Ms. Pritchard
25 (sic), Melissa Pritchard (sic), didn't have any visible marks

1 on her?

2 A. Again, my knowledge of the incident is strictly from the
3 -- from the report itself, but let me --

4 Q. Do you recall that, or do you need to refresh your
5 recollection?

6 A. I have the -- could I just take a minute to look at the
7 report?

8 Q. Very well. It's on page -- looks like the fax page is
9 page seven.

10 A. Fax page.

11 THE COURT: If you look at the top, there's --

12 MR. MARBLE: It's on page six of eight of the
13 report.

14 THE WITNESS: Is it this page with the -- with
15 the --

16 MR. MARBLE: No. That is --

17 THE COURT: It's the narrative page. It's the
18 narrative you read from.

19 MR. MARBLE: It's the two pages --

20 THE WITNESS: Oh, narrative.

21 THE COURT: Under, "Continued Investigation."

22 THE WITNESS: Oh, "Continued Investigation."

23 A. Okay. Yes, sir. It says right here, "Melissa did not
24 have any visible injuries."

25 Q. And that was after she had told the officers that he had

1 physically grabbed her by the arms and picked her up and moved
2 her from one place to another; correct?

3 A. Based on the report, yes, sir.

4 Q. Yes. And everything in that same paragraph, the next
5 question, if you need to refresh your recollection, is Joshua
6 was arrested that night; correct?

7 A. Correct.

8 Q. And he complied with the officers?

9 A. Yes, sir. He -- yes.

10 MS. ANDERSON: Objection. Foundation.

11 THE COURT: Well --

12 MR. MARBLE: It says that he was handcuffed without
13 incident, Your Honor, I believe.

14 THE COURT: Well, he -- we've done a lot of reading
15 from reports, so you can either summarize or read from the
16 report verbatim. Just let us know which one you're doing.

17 THE WITNESS: Yes, sir.

18 A. Reading from the report, "I placed Joshua in handcuffs,"
19 correct. Yes, sir.

20 Q. So there is no reference that he was combative or
21 uncooperative with the officers?

22 A. Correct.

23 Q. No information that he resisted arrest?

24 A. No, sir.

25 Q. And he was the only one arrested?

1 A. According to the report, yes, sir.

2 Q. Yes. And are you aware that, if you know the answer to
3 this, when police officers respond to domestic violence in San
4 Diego, someone has to be arrested, irregardless of what the
5 individuals want?

6 A. I was not aware of that, but I've heard in some
7 departments that is the policy, yes, sir.

8 Q. And are you also aware that this incident was later
9 dismissed or released from prosecution two days later?

10 A. Yes, sir.

11 Q. Now, I want to ask you about -- I'll probably mix up the
12 terms, but "CHS" to you means confidential human source?

13 A. Yes, sir.

14 Q. Okay. I might interchange it with confidential
15 informant, but I'll try and stick with CHS.

16 So this is somebody that is paid by the Government?

17 A. He receives payment on the Government based on the
18 information he provides, yes, sir.

19 Q. And usually paid in cash?

20 A. Yes, sir.

21 Q. Was this CHS handled by you?

22 A. He was.

23 Q. Okay.

24 A. He is.

25 Q. You were his handler?

1 A. I am.

2 Q. Why don't you tell us what a handler does.

3 A. A handler basically instructs a CHS on, if we're looking
4 for a particular type of event or something that's going to
5 happen, we'll essentially task the source in regard to look
6 out for a particular violation or -- essentially directing him
7 as to what I'm asking him to look for or report on.

8 Q. So in this case, can I assume that the CHS reported back
9 to you after the January Arizona Recon mission?

10 A. He did.

11 Q. And he probably reported that there was an individual who
12 caused attention there?

13 A. He did.

14 Q. And that was Mr. Pratchard?

15 A. It was.

16 Q. And that's when your investigation began?

17 A. Yes.

18 Q. And that information is coming from the CHS, who is not
19 in a -- is not an FBI agent?

20 A. That's correct.

21 Q. And he's not an ATF agent?

22 A. Correct.

23 Q. So he's just an individual being paid by the Government
24 for information?

25 A. Correct.

1 Q. Is he paid by the number of transactions that he makes?

2 A. What do you mean by "transactions"?

3 Q. So is he paid on a weekly basis or biweekly basis?

4 A. No.

5 Q. Is he paid based upon the information he provides?

6 A. He is.

7 Q. So I would consider, let's call -- information to you is
8 a transaction, so the more information that he provides to you
9 which you find beneficial or helpful, the more he's paid?

10 A. If the information pans out, yes.

11 Q. So would you agree that he has an incentive -- incentive
12 to broker deals?

13 A. What do you mean?

14 Q. To create -- I'm going to use the word "transaction." So
15 he has incentive to create transactions?

16 A. Could you define "create transactions?"

17 Q. Sure. So if he -- if he provides information to you that
18 you find beneficial, he's going to get paid?

19 A. He was, yes.

20 Q. If he doesn't provide information, he's not going to get
21 paid?

22 A. Correct.

23 Q. So it would be -- if he wants to get paid, it's incentive
24 for him to have information to provide to you?

25 A. It is.

1 Q. So he's probably actively involved to look or make
2 transactions happen so he can get paid?

3 A. Correct.

4 Q. So after the informant reported to you regarding the
5 January Recon, you told the CHS to continue conversations with
6 Mr. Pratchard?

7 A. Correct.

8 Q. Did you also direct the informant, the CHS, to set up a
9 meeting back in Arizona at a later date?

10 A. I'm sure he was -- Mr. Pratchard returning to
11 Arizona, yes, that was planned.

12 Q. So that was something you and the CHS would have
13 discussed and planned out?

14 A. Yes.

15 Q. But you're also aware that during this -- just some
16 general questions. So from January, I'm going to say from
17 January, I don't know the exact date in January, from January
18 until -- the arrest was on June 1st; correct?

19 A. Yes.

20 Q. So from that time period, the CHS had several different
21 contacts with Josh?

22 A. Yes, sir.

23 Q. These were under your direction sometimes or always?

24 A. I'm not sure how I could answer that.

25 Q. So the meeting in April, that was under your direction?

1 A. It was.

2 Q. The meeting in the end of May and June was under your
3 direction?

4 A. It was.

5 Q. And during that time, the confidential CHS was around
6 Josh when he had weapons?

7 A. He was.

8 Q. He shot weapons with Josh?

9 A. He did.

10 Q. And he went to his house in San Diego?

11 A. He did.

12 Q. And nothing unusual or bad happened to the CHS?

13 A. No. No. The CHS was never harmed in any way, no.

14 Q. Okay. Never -- never any incident between Josh and that
15 CHS of, like you said, a firearm or disagreements, arguments?

16 A. They -- the CHS had reported that, during the April
17 incident, that Josh, Mr. Pratchard, would become extremely
18 upset over seemingly innocuous things, such as a dead battery
19 in a set of NVGs.

20 I think they had disagreements. I think the CHS was
21 concerned about his reaction to certain things, and he
22 definitely made that apparent to myself, but there was never a
23 physical altercation.

24 Q. But -- but would you -- can I say that the CHS never felt
25 that he was in danger from Josh?

1 A. I can't say that, no. I believe at times he felt very
2 uncomfortable, but he never -- there were times that he felt
3 very uncomfortable around Mr. Pratchard.

4 Q. Now, isn't it true that, when Josh came back to Arizona
5 in April, that was because the CHS had told Josh that there
6 was a job opportunity for him here?

7 A. No. That's not correct, not in April.

8 Q. Would that have been at the end of May and June?

9 A. Yes, that's correct.

10 Q. So then April was simply a training opportunity, training
11 op?

12 A. Initially, Mr. Pratchard and CHS were supposed to meet --
13 Mr. Pratchard invited the CHS and the CHS's wife to Phoenix
14 because Mr. Pratchard and Mrs. Pratchard, based on the
15 conversations reported by the CHS, that they were going to
16 meet for -- to attend spring training games, because the
17 Pratchards are big fans of -- they enjoy baseball.

18 So initially Mr. Pratchard invited the CHS and the CHS's
19 wife to -- up to Phoenix to spend the day or a few days with
20 them, but then Mr. and Mrs. Pratchard ended up not coming out,
21 so then they -- Mr. Pratchard came down for -- in April just
22 to spend time with the CHS and to -- he ended up selling the
23 weapon there.

24 Q. But that was -- was that -- so that was -- let me just
25 clarify, because I didn't understand.

1 When he came in April, that was coordinated by the CHS?

2 A. With my direction, but yes, the CHS coordinated
3 it, because they were initially -- initially Mr. Pratchard
4 intended to sell the weapon to the source at -- in Phoenix,
5 when they were visiting for the baseball event.

6 Q. And so that didn't transpire, but the CHS wanted that to
7 happen because I'm sure he would have been paid for the
8 transfer of the weapon.

9 A. Correct.

10 Q. So he set up something else where Josh or Mr. Pratchard
11 could meet him in the Tucson area?

12 A. Correct.

13 Q. Now, in the end of May and early June, that's when the
14 CHS presented to Josh a job opportunity?

15 A. Correct.

16 Q. What company or what organization would that have been
17 for?

18 A. It was for a company that's called Global Intel.

19 Q. Okay. What do they do?

20 A. Global Intel is a -- if you do a general Google search --
21 the CHS does not actually work for that company. Global Intel
22 exists, but the CHS does not -- is not an employee of that
23 company.

24 Q. What does Global Intel do in southern Arizona?

25 MS. ANDERSON: Okay. Relevancy, Your Honor.

1 THE COURT: Overruled.

2 BY MR. MARBLE:

3 Q. So you can answer.

4 A. The actual company Global Intel? I don't know.

5 Q. You don't know?

6 A. No, I don't know.

7 Q. Did the CHS provide you this information, or did you
8 provide information to the CHS about a Global Intel job?

9 A. No, the CHS, as a cover, when he would discuss what he
10 does when he's attending certain border operations and things
11 of that, would tell people -- he came up with that story on
12 his own, that he worked for a company called Global Intel, and
13 that's why he was in the area.

14 Q. Does Global Intel have a base off Langley Road on Highway
15 86?

16 A. No, they do not.

17 Q. Is that a private residence? Is that the residence of
18 the Kings?

19 A. It is. Mr. -- the CHS also lives there.

20 Q. Would you agree that the confidential human source
21 encouraged or -- encouraged Mr. Pratchard to bring his weapon
22 back to Arizona in April because he wanted to purchase it?

23 A. They had mutual --

24 MS. ANDERSON: Objection, Your Honor, to the word
25 "encouraged."

1 THE COURT: No, I think he can answer it, if he can.

2 A. The CHS and the subject mutually agreed to sell a weapon
3 or to -- I'm sorry. Mr. Pratchard agreed to sell a weapon to
4 the CHS, and the CHS agreed to purchase it in April.

5 Q. Okay. I think that answers.

6 And when Mr. Pratchard brought a different weapon on that
7 occasion, because he didn't bring the weapon that was
8 originally discussed, I think the .300 Blackout we talked
9 about, the CHS still wanted to purchase it?

10 A. He wanted to purchase a weapon, yes, sir.

11 Q. Correct.

12 A. Excuse me.

13 Q. And he was -- throughout the course of, I'm not sure, I
14 think that's -- would you agree with me that, in April, from
15 about April 10th to the 14th, when they had their -- the
16 interactions here outside of Tucson?

17 A. Yes, that's when the -- he arrived.

18 Q. And would you agree, I can -- would you agree that,
19 during that course of time, the CHS, from some of the audio we
20 have, or if that's an audio recording, asked him several times
21 to purchase the weapon?

22 A. That's correct, yes.

23 Q. Did he receive a bonus for that transfer of the weapon in
24 April, or payment?

25 A. He received -- he received payment for the time that he

1 spent and -- with Mr. Pratchard, yes.

2 Q. If Mr. Pratchard hadn't sold him the weapon, would he
3 still have received payment?

4 A. He would have, yes.

5 Q. Would it have been a different amount?

6 A. I believe so, yes. It would have been slightly less.

7 Q. I want to ask you a couple questions about the San Diego
8 search warrant.

9 Does Melissa Pratchard also live at that residence in San
10 Diego?

11 A. She does.

12 Q. Have you ran a background check on her?

13 MS. ANDERSON: Objection. Relevancy.

14 THE COURT: Overruled.

15 A. A background check to consist of what?

16 Q. Let me ask you a different question. Can she legally
17 possess a weapon?

18 A. She can, yes.

19 Q. Were the weapons in a locked safe?

20 A. They were.

21 Q. Were you present at the serving of the search warrant in
22 San Diego?

23 A. I was not, no.

24 Q. You were in Tucson?

25 A. Yes, sir.

1 Q. Were you present when Mr. Pratchard was arrested at the
2 Casino Del Sol?

3 A. I was, yes, sir.

4 Q. Did you -- did you participate in serving a search
5 warrant on the Ford F150 truck?

6 A. Yes, I was there.

7 Q. Would you agree with me -- let me just ask you this
8 question. Do you remember the time frame of the Arizona
9 Border Recon mission in January, the exact dates of that
10 mission?

11 A. No, sir, I don't. I know that Mr. Pratchard -- I believe
12 Mr. Pratchard was there from January 27th until February 1st,
13 if memory serves.

14 Q. Okay. So --

15 A. I don't remember the total duration of the operation.

16 Q. I'll refer to it then -- I don't know either, so I'll
17 refer to that mission as the end of January mission.

18 So from the end of January until June 1st, Mr. Pratchard
19 was here in the end of January?

20 A. He was.

21 Q. He was here in the middle of April?

22 A. He was.

23 Q. And then he was here the end of May until June 1st, when
24 he was arrested?

25 A. Correct.

1 Q. And in the interim, did you have any surveillance of him
2 in San Diego?

3 A. In San Diego, I believe --

4 MS. ANDERSON: Objection. Relevancy.

5 THE COURT: No. Overruled.

6 A. In -- once the search warrant -- once we discussed with
7 the FBI personnel in San Diego, they conducted, I believe,
8 just drive-by surveillance to take a look at the apartment,
9 once they knew what it was, but there was never any
10 surveillance team assigned to follow Mr. Pratchard at any
11 time.

12 Q. And you also had the information from the CHS who visited
13 him at his house there as well?

14 A. What information are you referring to, sir?

15 Q. When the CHS went to stay with Josh and --

16 A. Are you saying the CHS gave -- provided -- you just
17 referenced information.

18 Q. I would -- I would assume -- I'm sorry.

19 I would assume the CHS provided you information from his
20 visit to Josh in San Diego.

21 A. He did.

22 Q. And he was probably paid for that visit as well.

23 A. He was, yes.

24 Q. Would you agree with me that from -- if we're taking the
25 -- from the time that there was an alleged transfer on April

1 14th -- I believe that was -- is that the correct date, April
2 14th, from the complaint, the transfer of the weapon, on April
3 14th?

4 A. The first weapon, yes, sir.

5 Q. So from April 14th to June 1st, that's about 45 days?

6 A. Somewhere in there, yes, sir.

7 Q. And that whole time Mr. Pratchard was out and about
8 living in the San Diego community?

9 A. He was.

10 MR. MARBLE: Can I have just one second, Your Honor?

11 THE COURT: Sure.

12 MR. MARBLE: I think just a couple more questions.

13 BY MR. MARBLE:

14 Q. I want to back you up to just the -- it's called the
15 Global Intel story.

16 A. Yes, sir.

17 Q. Did you discuss with the CHS offering a fictitious job to
18 Mr. Pratchard through Global Intel? Was that discussed with
19 you and the CHS?

20 A. It was.

21 Q. Okay. And that was to get him back out to Arizona?

22 A. Yes.

23 Q. And during that time, you wanted to put him through some
24 -- well, make him think that he's being interviewed for a job?

25 A. Yes.

1 Q. Okay. And you're aware that Josh also worked -- are you
2 aware that Josh also has worked in San Diego for a non-profit
3 called Second Chance Fields?

4 A. I'm aware that he's involved with that. I don't know how
5 much he works or -- but yes, I'm aware of his association with
6 that business organization.

7 Q. Thank you. Did you and the CHS come up with a job offer
8 for Josh?

9 A. I believe that was the CHS. The specific job offer, I
10 believe that was the CHS.

11 Q. Did you discuss what the fictitious payment would be?

12 A. No, because the CHS had previously already stated to the
13 -- he told -- as part of his cover story, he has his salary
14 and what he makes, et cetera, et cetera. He'd already told
15 people, so we had to go with that because we didn't want to
16 change it.

17 Q. And is -- from your information, that's a salary over six
18 figures?

19 A. The salary is six figures, yes, sir.

20 MR. MARBLE: Okay. Thank you. No further
21 questions.

22 THE COURT: Thank you.

23 Ms. Anderson?

24 MS. ANDERSON: I've got a couple of follow-up
25 questions.

1 REDIRECT EXAMINATION

2 BY MS. ANDERSON:

3 Q. Now, as the handler, you do many things with a source or
4 a confidential human source other than just telling them what
5 kind of activity to look for; is that true?

6 A. That's correct.

7 Q. One of the things that you do is give the CHS an
8 admonishment; correct?

9 A. That's correct.

10 Q. And what are some of those admonishments. Can you tell
11 us about those?

12 A. The CHS has to be truthful. The CHS has to understand
13 that he's not an employee of the Government, that he -- that
14 we'll try to protect his or her identity, but we can't
15 guarantee it.

16 Q. And how often is a CHS given these admonishments?

17 A. Minimum, yearly, but we admonished -- this CHS was
18 admonished upon his opening, and then he was readmonished I
19 believe in mid-May, and then he was readmonished a third time
20 for specific actions that he could and could not take during
21 his -- during the time Mr. Pratchard was with him.

22 Q. And what were those?

23 A. That as part of the -- they were going to patrol the
24 mountains of southern Arizona, and they were instructed at no
25 time will they have any interaction with, detain, surveil, or

1 put hands on any suspected undocumented immigrants. If they
2 see any, they are -- the CHS is instructed to immediately
3 leave the area.

4 And on the operation, the CHS needed to inform me when
5 they left for the night and immediately upon their return.
6 And the CHS was instructed -- the CHS is very familiar with
7 the area in southern Arizona, and he was instructed to keep
8 them away -- to keep Mr. Pratchard himself away from any --
9 any known undocumented or illegal smuggling routes.

10 Q. Because that was a concern?

11 A. It was, yes, yes, ma'am.

12 Q. Because one thing is that the defendant expressed
13 interest in running into rip crews; correct?

14 MR. MARBLE: Objection. Leading the witness.

15 THE COURT: Overruled.

16 BY MS. ANDERSON:

17 Q. Go ahead.

18 A. Yes, ma'am.

19 Q. Now, one thing that Mr. Marble asked you about is making
20 transactions to get paid, and I want to ask you about that a
21 little bit.

22 Mr. Marble said that the source has an incentive to
23 broker deals. Do you recall that line of questioning?

24 A. Yes, ma'am, I do.

25 Q. And he used the word "transactions," and I'm not sure

1 what the context meant for "transactions," but as any
2 confidential human source, they get paid for information that
3 they provide; is that correct?

4 A. Some sources do get paid. Other sources refuse payment.
5 They do it simply for patriotism or pro law enforcement.
6 There is a variety of reasons that they do it. Some get paid;
7 some don't get paid.

8 In this instance, the CHS's motivations were monetary
9 compensation and patriotism and pro law enforcement
10 ideologies.

11 Q. So are they -- does the source -- Mr. Marble painted a
12 picture as if the source was encouraging Mr. Pratchard to sell
13 the weapon out of an -- almost as an inducement or an interest
14 in him getting paid more.

15 Do you understand my question?

16 MR. MARBLE: I'm going to object to that question.
17 I think it's --

18 THE COURT: I'm not sure there was a question. Was
19 there a question? What is the question?

20 BY MS. ANDERSON:

21 Q. Well, Mr. Marble on cross-examination was using the word
22 "transaction" and seemed to insinuate during his questioning
23 of you that the source would almost induce the defendant to
24 sell him the gun out of an interest of getting paid money.

25 Now, my question, once I move forward, is did the

1 defendant appear to be a willing participate?

2 A. Yes, he was.

3 MR. MARBLE: Objection. Calls for speculation.

4 THE COURT: No. That's overruled.

5 BY MS. ANDERSON:

6 Q. How many hours of transcripts have you listened to and
7 audio recordings?

8 A. I lost count. I don't know. We have several recordings
9 over -- it's, I would say, a couple dozen.

10 Q. So this -- these are audio recordings and video
11 recordings of the defendant; correct?

12 A. Yes, ma'am.

13 Q. So you've had a chance to listen to the defendant in his
14 own words as he was out with the CHS; correct?

15 A. Yes, ma'am.

16 Q. Now, based on your review of the transcripts, did the
17 defendant appear to be a willing participant in these
18 transactions?

19 A. Yes, he was.

20 Q. Did the defendant appear to like the company of the CHS?

21 A. Yes, he did.

22 Q. In fact, the defendant was not allowed to participate in
23 Arizona Border Recon; correct?

24 A. After the first operation, yes, ma'am.

25 Q. But the CHS -- I'm sorry. Mr. Pratchard, the

1 defendant, continued to come back to Arizona; is that right?

2 A. That's correct.

3 Q. On cross-examination, defense counsel asked you whether
4 you orchestrated or put into place the defendant coming back
5 to Arizona, and I think this was in the April -- the April
6 visit.

7 A. Yes, ma'am.

8 Q. Did you orchestrate that?

9 A. I discussed with the CHS the possibility of him coming
10 back. We -- I wanted to see if Mr. Pratchard was willing to
11 come back. So if he was -- if he was willing to come
12 back, that meant that he seemed serious about selling the
13 rifle and conducting border operations.

14 Q. The meetings in May and June, were those under your
15 direction? In other words, did you orchestrate those?

16 A. I did.

17 Q. What do you mean by "orchestrate those"?

18 A. The -- the CHS and the -- and Mr. Pratchard had agreed to
19 the transfer of another rifle. The CHS agreed to purchase it,
20 and Mr. Pratchard agreed to sell it. The source wired
21 Mr. Pratchard \$1800 in early May, and they scheduled a -- they
22 scheduled to come out to conduct another border operation, but
23 also to transfer -- to sell the weapon.

24 Q. So the CHS transferred money to the defendant; correct?

25 A. He did.

1 Q. At whose direction? That was Mr. Pratchard; correct?

2 A. Correct, and Mr. Pratchard requested a down payment for
3 the items.

4 Q. This particular CHS provides information on several other
5 matters; is that correct?

6 A. Yes, ma'am. He provides information on several cases.

7 Q. Was the FBI concerned about the defendant being on the
8 streets?

9 A. Yes.

10 Q. Tell us why.

11 A. Initially, we believed that the -- we weren't sure how --
12 how many weapons he was making and who he was making them
13 for, so initially, we wanted to introduce -- we wanted to find
14 -- to see if he was part of a network of selling weapons, how
15 many people he sold weapons to. He obviously gave weapons to
16 his brother and we believe other family members.

17 We weren't initially sure how many weapons he sold, so
18 that was initially our -- our main motivation for not
19 arresting him immediately. But then the -- the risk of
20 leaving Mr. Pratchard in the community outweighed any possible
21 -- any possible additional -- forgive me. I want to make sure
22 I say this right.

23 The risk wasn't worth the reward regarding keeping --
24 allowing Mr. Pratchard to stay in the community.

25 Q. Now, the defendant has produced and provided firearms to

1 family members; correct?

2 A. According to his own words in the transcription, yes.

3 Q. Do you know how many firearms defendant has produced for
4 his family?

5 A. No, ma'am, I do not.

6 Q. And do you know whether or not he has produced firearms
7 for his family who is in close proximity to where he lives in
8 San Diego?

9 MR. MARBLE: Objection. Outside the scope of cross-
10 examination, Your Honor.

11 THE COURT: I'm going to let -- I'm going to let you
12 -- if you want to recross on that, you can.

13 You can answer.

14 A. Could you repeat the question, ma'am?

15 Q. Sure. Now, I think you just said that we don't
16 know, meaning the FBI does not know, how many firearms, how
17 much ammunition, the defendant has produced and provided to
18 his family members.

19 Is that correct?

20 A. That's correct.

21 Q. He's admitted that he did produce firearms for family
22 members, but FBI has does not know how many; correct?

23 A. That's correct, ma'am.

24 Q. That being the case, we don't know how many he has
25 produced for family members that are in close proximity to

1 where he lives in San Diego?

2 A. That's correct, ma'am. We don't know.

3 MS. ANDERSON: Let me just check my notes, Your
4 Honor.

5 That's all I have.

6 THE COURT: Okay. Sir, I have a couple questions.

7 I can't remember from the morning, was the
8 confidential human source involved in that January/February
9 militia group?

10 THE WITNESS: Involved how so, sir?

11 THE COURT: Was he present with Mr. Pratchard? Was
12 he part of that militia group?

13 THE WITNESS: He's not part of the group, but he did
14 attend the event.

15 THE COURT: So he attended the event with
16 Mr. Pratchard?

17 THE WITNESS: He was at the same event, if that's
18 what you mean, sir.

19 THE COURT: Right.

20 THE WITNESS: Yes, sir.

21 THE COURT: Did they patrol the border together, do
22 you know?

23 THE WITNESS: I don't know exactly what they did.
24 Usually the standard operating procedure for Arizona Border
25 Recon is they will occupy a general area, and they'll

1 basically sit on mountaintops, because the way smuggling --
2 drug smuggling routes and things like that work is the cartels
3 will usually have a scout sitting on a hill, and they'll just
4 be communicating as to where they want the individuals, drugs,
5 what have you, to come through.

6 Arizona Border Recon essentially saturates an area
7 and attempts to divert the people, drugs, that are coming
8 across the border, to where -- they set up strategically to
9 where they want -- they try to direct the groups coming across
10 the border into border patrol custody.

11 THE COURT: Okay. But I take it this confidential
12 human source didn't provide you with any information about
13 what Mr. Pratchard or any of the other militia members did
14 during that time frame.

15 THE WITNESS: Specifically regarding the border
16 operation, sir?

17 THE COURT: Right.

18 THE WITNESS: I don't believe so.

19 THE COURT: Whether they encountered people crossing
20 and so forth.

21 THE WITNESS: I don't want to say yes or no, sir. I
22 don't remember the specifics, because the main thing that he
23 reported on after that was Mr. Pratchard. I'm sure that he
24 reported on some of the activity, but I don't know -- I don't
25 remember the specifics of that.

1 THE COURT: Okay. All right. And then at some
2 point, when you were discussing how the CHS was admonished and
3 given the admonishments, you mentioned, I think, that there
4 was a plan for Mr. Pratchard and the confidential human source
5 to patrol the mountains of southern Arizona and do border
6 operations.

7 Did that actually happen?

8 THE WITNESS: They went on a land nav route onto --
9 they didn't bring any weapons. They went out just to
10 checkpoints.

11 THE COURT: Okay. How many times? Do you know?

12 THE WITNESS: Just at the -- in the May/June?

13 THE COURT: I guess in total.

14 THE WITNESS: In total, I believe when they were out
15 in April they went out a handful of times, three, three
16 times, maybe, I'm not sure, but when they came out -- when
17 they did it in May, it was only once.

18 THE COURT: Did they have weapons on any of those
19 occasions?

20 THE WITNESS: I don't know, sir. I'm not sure. I
21 believe they did.

22 THE COURT: You believe they did?

23 THE WITNESS: Yes, sir.

24 THE COURT: Was the confidential human source
25 allowed to possess a weapon, either by law or pursuant to the

1 agreement that the confidential human source had with you all?

2 THE WITNESS: He doesn't really have a legal
3 agreement. He's not working off charges. But he is
4 authorized to carry weapons, yes, sir.

5 THE COURT: Okay. But you didn't -- as part of your
6 admonishments, you've never told him you can never have a
7 weapon?

8 THE WITNESS: Correct.

9 THE COURT. Okay. That's all I have.

10 Any follow-up questions?

11 MS. ANDERSON: No, Your Honor.

12 MR. MARBLE: Can I clarify one matter?

13 THE COURT: Sure.

14 FURTHER EXAMINATION

15 BY MR. MARBLE:

16 Q. On the -- on the -- so on the air -- excuse me.

17 On the recon mission, what would be I think either April
18 or -- the April one, you said that they went on a mission but
19 without weapons?

20 A. That was in May.

21 Q. Okay. In May. I'm sorry. So the operation in May they
22 went on an overnight but without weapons?

23 A. No, it was without weapons. It was only a couple of
24 hours, but it was a nighttime land navigation exercise.

25 Q. Okay. But without any weapons?

1 A. Correct.

2 MR. MARBLE: Okay.

3 THE COURT: Okay. And then so you can step down.

4 Thank you.

5 THE WITNESS: Thank you, sir.

6 THE COURT: So Ms. Anderson, you don't have any more
7 witnesses; right?

8 MS. ANDERSON: No, Your Honor. That's correct.

9 THE COURT: Okay. And Mr. Marble, you still don't
10 have any witnesses; correct?

11 MR. MARBLE: I don't have witnesses, but I do have
12 documents I'd like to admit for the Court to review.

13 THE COURT: Sure.

14 MR. MARBLE: Those are Exhibit 51, which is a letter
15 of recommendation. I'd move to admit that exhibit.

16 THE COURT: Okay. And Ms. Anderson, any objection?

17 MS. ANDERSON: No, Your Honor.

18 THE COURT: Okay.

19 MR. MARBLE: And then Exhibit 52, Your Honor, is
20 actually a compact disk that contains clips of the Second
21 Chance Fields nonprofit that Mr. Pratchard works at.
22 There's -- for the Court's information, we have -- I know this
23 courtroom's kind of set up for playing them, but I have a
24 compact disk for the Court. There is four separate clips.

25 The total of four clips in total is probably about

1 10 to 11 minutes explaining what Second Chance Fields is and
2 what Mr. Pratchard does for that organization.

3 THE COURT: Is it like a video of the people
4 actually doing work or just, like, a promotional video?

5 MR. MARBLE: No, it's -- most of them are news
6 reports regarding what that organization has done in the San
7 Diego community, and Mr. Pratchard is in those clips. In
8 addition, there's kind of a question and answer, so people,
9 through the news, get to know what that is.

10 THE COURT: Okay. And then, Ms. Anderson, do you
11 have any objection?

12 MS. ANDERSON: No, Your Honor.

13 THE COURT: Okay. So that will be admitted as well,
14 and I'll take a look at that.

15 So did you all want to argue the motion today?

16 MS. ANDERSON: I'm prepared.

17 THE COURT: Okay.

18 MR. MARBLE: Yes.

19 MS. ANDERSON: Okay. Thank you.

20 Judge, first of all, it's the Government's position
21 that the defendant is both a flight risk and a danger to the
22 community.

23 First of all, we would proffer the allegations in
24 the complaint in support of probable cause. I'd point out to
25 the Court that pretrial services finds the defendant both to

1 be a flight risk and a risk of danger to the community, and
2 it's the recommendation of pretrial services that the
3 defendant be detained, and the Government concurs with that
4 recommendation.

5 Now, first of all, I want to talk about the flight
6 risk. First of all, the defendant lacks ties to this
7 community. He lives in San Diego. He lives in San
8 Diego, which is close to the border. And the defendant is
9 looking at some serious criminal charges both here in and San
10 Diego, based on the items that were found in his house and
11 also the items that were found in his vehicle on June
12 1st, including the fact that he has sold the two different
13 firearms to the CHS.

14 We feel that he poses a risk of nonappearance based
15 on his past foreign travel, his past and current drug
16 use, Your Honor, his mental health issues, and his prior
17 noncompliance with conditions of probation. And his
18 noncompliance pertains to the three years of probation that he
19 was placed on. However, he violated the terms and conditions
20 and had his probation revoked.

21 Next, Your Honor, the Government believes, and this
22 is the most compelling portion of the argument, the Government
23 believes that he is a danger to the community. And pretrial
24 services also believes that the defendant poses a risk of
25 danger to the community.

1 And first of all, Your Honor, it's clear in looking
2 at all of these records, it's very clear that rules, laws,
3 restrictions, conditions of probation supervision, mean
4 absolutely nothing to the defendant.

5 He's been convicted of a felon -- of a felony, two
6 felonies. He's a prohibited possessor. But that means
7 nothing to him. That means nothing to him. He can't buy
8 firearms. He can't buy ammunition. So what's he do? He
9 makes it. He makes it himself in his apartment in San Diego.
10 And we have -- one of our exhibits includes photographs of all
11 of the equipment that he's got in his apartment in San Diego.

12 In his vehicle when he was arrested, he had three
13 firearms. One was a .45 pistol, one was a short-barreled
14 rifle, which is a prohibited firearm in and of itself, the AR,
15 and he had in excess of -- I believe it was in excess of 200
16 rounds of ammunition just in his car.

17 The next factor that we need to look at in examining
18 his dangerousness and the risk to the community is that he
19 sold two firearms and ammo to the confidential human source.

20 Next, Your Honor, is Exhibit 2, which is also
21 extremely compelling. According to the police reports, and
22 this is all in Exhibit No. 2, the defendant, on October 13th
23 of 2007, got in a -- severely beat the victim, who is listed
24 in the report.

25 Now, these reports, I don't see anything in these

1 reports about a fight with anybody else other than the victim.
2 According to the victim's statement or one of the witness'
3 statements, "We were mistaken for another party."

4 According to the one of the police officers who
5 responded to the scene, "I was escorted by Officer Withers to
6 an unconscious male victim lying in a pool of blood on a
7 festival pavilion floor. The male was later identified as
8 Derrick Sanders by medical personnel. Sanders was being
9 treated by Medic 51 and was later transported to the hospital.

10 "While checking on Sanders, I was approached by a
11 male later identified as Isaac York. York stated he witnessed
12 the assault and was able to catch the incident on video. York
13 showed me the footage on his portable video camera of a male
14 dressed in the same clothing as Pratchard. The male in the
15 video is shown using his foot in a stomping matter to strike
16 another male lying on the floor of the festival pavilion."

17 Your Honor, this -- it appears that the victim was
18 completely unknown to the defendant. The defendant -- I'm
19 sorry. The victim in his statement says, "He continued by
20 stomping on my face until he was pulled off." That was on
21 October 13th of 2007. The victim suffered a broken nose, a
22 fractured jaw, and a concussion.

23 The defendant was convicted of this felony on
24 October 21st of '09, and he was placed on probation.
25 However, his probation was revoked, and he was sent to the

1 Bureau of Prisons for one day, and his supervisor -- his
2 probationary period was extended as a result of that.

3 Next, Your Honor, on March 9th of 2014, we've got
4 battery on a spouse, and this is Exhibit 5. And during this
5 exchange, the officers put statements from Melissa Pratchard
6 in the report. "Melissa stated there had been several
7 incidents in the past where Joshua was very aggressive with
8 her verbally but had never battered her in the past."

9 And then she went on to articulate for the officer
10 the events of what happened. And again, she said, "We went to
11 a church class. They were talking a lot about marriage.
12 Joshua felt bad and left early from the class because he felt
13 that some of the things they were talking about in the class
14 that he was doing.

15 "We got home and Joshua was not talking to me. I
16 grabbed my journal and rode my beach cruiser to the beach. I
17 wrote in my journal for a while and then went back home. When
18 I got home, Joshua was mad at me. He was upset that I left,
19 and I did not stay to comfort him. He then calmed
20 down, hugged me, and apologized.

21 "Joshua then started watching television in the
22 living room and went to the bedroom and started to work on
23 homework. A short while later, Joshua walked into the room
24 screaming at me. He was upset about a text that I had sent
25 him earlier when I left explaining the way I felt about the

1 way he was acting."

2 She then goes on to describe about, "I grabbed one
3 of the pill bottles and threw it at me. He said it was my
4 Vicodin. The bottle hit me in the arm." Then the defendant
5 told his wife that she had five seconds to leave or he was
6 going to hurt her. He grabbed her by her arms, picked her
7 up, and threw her on the bed. At that point she called the
8 place, and he said, "Go ahead," and he walked away.

9 Your Honor, this account demonstrates that the
10 defendant is mentally unstable. He's got mood swings, and he
11 is just a risk to not only other people around him which he
12 doesn't know, but also to his family.

13 Furthermore, Your Honor, the search warrant on his
14 house revealed eight firearms in the house. And again, we
15 don't know what other firearms he will have access to if he's
16 allowed to be released.

17 The defendant has used and distributed ecstasy,
18 which is a Schedule I drug that pertains to his conviction in
19 the military. He's currently taking a large amount of
20 opioids. He's used violence against strangers and his own
21 wife. We don't know how many firearms are in the San Diego
22 area that he has given or sold to other individuals.

23 More importantly, we think he's -- his record
24 demonstrates that's completely mentally unstable, and he's a
25 risk to the community, and it's our position that he should be

1 detained.

2 THE COURT: Okay. Thank you.

3 Mr. Marble?

4 MR. MARBLE: Your Honor, I'd like to remind the
5 Court that I think the Court asked us on Wednesday, and I
6 wasn't -- we were setting up the hearing today, but I wanted
7 the Court -- I do not believe this is a presumption case.

8 THE COURT: That was going to be my next question.

9 MR. MARBLE: Yeah, this is -- if the Court were --
10 I'd refer the Court to 3142(e)(3). None of -- there's
11 (A), (B), (C), (D) of subsections. None of those fits the
12 qualifications of what we're looking at today.

13 (A) would be probable cause to believe that the
14 person committed a drug offense with a maximum term of 10
15 years. That's not charged in this complaint. An offense
16 under 924(c). That's not charged. 956(a), Your Honor, is I
17 believe threatening a foreign official, to kidnap a foreign
18 official. The 2332b(g)(5)(B) is acts of terrorism where the
19 maximum imprisonment is 10 years. That's not charged.

20 An offense under chapter 77, Your Honor, is the --
21 the 1591 sex trafficking, the sex trafficking of a minor.
22 That doesn't apply. And then the last one, (E), are an
23 offense involving minor victim under section -- it listed
24 several sections. None of those are listed in the complaint,
25 Your Honor. So this is not a presumption case, from our

1 position.

2 As the Court's aware, the Court's job today is to
3 determine if there is a condition or combination of conditions
4 that will reasonably assure Mr. Pratchard's appearance for
5 future court appearance, and as the Government presented
6 evidence, obviously, for the dangerousness, there has to be a
7 danger to another person, which I don't think they've
8 established whatsoever, or I think to the community.

9 That evidence has to be by clear and convincing
10 evidence, Your Honor, from the United States vs. Gerbo, which
11 is still good law, from 1991. So I would refer the Court that
12 there are conditions that can be placed upon Mr. Pratchard
13 that would assure that he's going to appear in court and also
14 to relieve any concerns of the issue of dangerousness.

15 I really don't think that the Government presented
16 much if any evidence of a flight risk for Mr. Pratchard. He's
17 not a flight risk, Your Honor. He's -- he's not going to fail
18 to appear. I don't think there's any evidence of a failure to
19 appear in the past, so I think that hasn't been established
20 today.

21 Regarding the danger to the community, I think
22 there's - I'm going to propose some conditions to the Court
23 that I think would help any concerns. If he's -- obviously no
24 alcohol, no drugs, of course. Mental health condition, if the
25 Court thinks that's necessary. No weapons. No weapon parts.

1 No equipment to manufacture, do any kind of manufacturing.

2 But as the Court's aware, I think that concern
3 should be relieved, because when the search warrant was
4 served, all that had been seized by the Government. The FBI
5 has all that when they served the search warrant. It's on the
6 inventory, and I believe it's Exhibit 30. That's no longer in
7 his possession.

8 I think if the Court were to impose a condition of
9 no travel to Arizona except to meet with his attorney or for
10 court hearings, that would relieve any concern that he's
11 participating in any more of these operations, because it
12 seems from the evidence that we've heard today that that was
13 going to happen when he was here the one time with the Arizona
14 Border Recon and then with the CHS.

15 I don't think Mr. Pratchard's a dangerous person,
16 Your Honor. The evidence that the Government presented for
17 that is a domestic violence incident with his wife that was
18 back in 2014 and was released from prosecution two days later.

19 The other incident from 2007 is about 11 years
20 old, and we have to look at the case not just from what's read
21 from the police reports, because that just gives us a bluish of
22 what actually happened. If that was -- I would submit to the
23 Court, if that's -- if from what the police report was the
24 only side of the whole story, I can't imagine Mr. Pratchard
25 getting probation for that, the seriousness, for the injuries

1 done to that person.

2 I can't imagine that he would only receive
3 probation. I think that begs the question that there was
4 definitely more to the story than what we heard from that
5 recountings of the police report.

6 The incident from 2001, when he was in the military;
7 Your Honor, I believe he was 19 years old. He finished it and
8 was released early because of his good behavior and compliance
9 with what they wanted him to do from back in 2001.

10 Your Honor, his family's here from San Diego. His
11 wife's here from -- I'm sorry. His family -- his parents are
12 here are, actually, from Concord, California, in the Bay Area.
13 His wife is here from San Diego. He has very close family
14 friends here in Tucson who have been at all the court hearings
15 to support him. They're going to make sure that, if the Court
16 releases him, that he's in complete compliance, because they
17 want to make sure he follows through with this.

18 Pretrial services, Your Honor, did find that his
19 wife, who's present, would be a suitable third-party
20 custodian, so I think that gives -- there's lots of conditions
21 the Court can impose on him to make sure complies.

22 And as the Court's aware, just to remind the
23 Court, the Court has to find in this case that there's no
24 conditions that can be placed upon him to assure his
25 appearance and to assure the compliance with -- with the case.

1 I think there's lots of conditions, if the Court's
2 really concerned -- although I don't believe he's really a
3 flight risk, electronic monitoring is the alternative to that,
4 so the Court can be aware of where he's at at all times. So I
5 believe that there are conditions that would alleviate any
6 concerns of the case.

7 So to remind the Court of the law under 3142(g), I
8 would say the majority of the information we heard today was
9 regarding -- well, half, I would say a split, but the weight
10 of the evidence is the least factor for the Court to consider
11 under conditions of release, regarding his detention.

12 But I think his character, his physical and mental
13 condition are all conditions to be placed on him for that, his
14 close family, united family, to help him appear at everything,
15 their concern for him and wanting him to do well.

16 The Court -- while he doesn't reside in Tucson, I
17 think it's pretty common for this to happen. We've all seen
18 where he can be released from here but reside in San Diego
19 with courtesy supervision. I know Ms. Ramonet is here. I did
20 not ask her that, but I think that -- I've had that happen in
21 lots of cases. I think it's easily set up.

22 So I would ask the Court to factor -- fashion
23 conditions to assure that he appears. I think he will.
24 That's under the best interest. If that includes a personal
25 assurance bond or a very small financial bond of cash, I think

1 the family could -- would have some means to do that.

2 And then, again, just from some research that I did,
3 Your Honor, even if the Court finds or thinks that he's a
4 danger to the community, that would not prohibit him from
5 being released upon the conditions. It's whether or not
6 conditions can be fashioned to assure that he is going to
7 appear in court. So I think I've proposed conditions that
8 will assure that.

9 I would ask the Court that, since this is -- it's a
10 very serious case, however, the Bail Reform Act is liberal on
11 release, this is not a presumption case, and since there are
12 conditions that would assure his appearance in Court, that the
13 Court release him on bond conditions.

14 THE COURT: Okay. Thank you.

15 Okay. Well --

16 MS. ANDERSON: Your Honor, may I point out a couple
17 of things?

18 THE COURT: Oh, yeah. It's your burden, so you get
19 the last word.

20 MS. ANDERSON: Okay. Judge, I forgot to point out a
21 couple of portions from the transcript that I think are
22 important, so I wanted to do that at this time.

23 This is during the April 10 to April 14th visit,
24 when the defendant came out here and was spending time with
25 the CHS, and it was at that time that the CHS and the

1 defendant were talking about coordinates, terrain locations
2 and what -- where they were planning on going and what they
3 were going to do.

4 And the defendant stated, this is Government's
5 Exhibit 29, "Does this mean we get to engage rip crews?"

6 And the CHS says, "More likely than not. Not
7 looking forward to it."

8 But the defendant says, "I am."

9 Next, the CHS says, "Yeah, you think that? Shit
10 gets real real quick."

11 And what does the defendant say? "I'm looking
12 forward to it. I want to do it. I want to do it."

13 That's what the defendant is about. He wants to
14 engage rip crews.

15 Mr. Marble talked about rules and conditions being
16 imposed on the defendant such as don't travel, don't travel to
17 Arizona, don't have any guns, don't have any gun parts.
18 Rules, regulations, mean nothing to the defendant.

19 Look. Look at what was in his house. It was an
20 armory. It was loaded with firearms. Look at what he had in
21 his vehicle. You can only shoot one gun at a time, but yet he
22 had -- he had a whole stash of firearms and ammunition just in
23 his vehicle.

24 The fact that he's on some serious opioid
25 medication, you saw evidence in the police reports about his

1 anger, his anger towards his wife, his anger towards this
2 other individual, the victim in the assault with serious
3 bodily injury, it demonstrates that the defendant is not
4 stable.

5 And the Government argues to the Court that he's --
6 he's a danger to the community, and he needs to be detained.
7 There are no conditions or restrictions that can be placed
8 upon him that would protect the community.

9 Thank you.

10 THE COURT: Thank you, Ms. Anderson.

11 MR. MARBLE: Judge, I'm so sorry. Can I make one
12 final point that I forgot to bring up? I'm so sorry.

13 THE COURT: Sure.

14 MR. MARBLE: And that was that, I discussed with the
15 agent, but the time that elapsed, just if you look at the
16 complaint, Your Honor, these events occurred on April
17 14th, the two charges in the complaint.

18 The rest of that time Mr. Pratchard's been out in
19 the community, living with his wife in San Diego, and he
20 didn't come back to Arizona until the end of May, early June,
21 when he was arrested at the -- at the setup, the arrangement
22 with the CHS. So during that time he's been out in the
23 community without any conditions.

24 So I think that weighs in favor of releasing him,
25 because he was out. There were no other incidents. And now,

1 with conditions, he's going to -- that would put more upon
2 him. So I think that weighs -- if this was such a concern,
3 such a danger, I don't know why he wasn't arrested on April
4 14th, Your Honor.

5 THE COURT: Okay. Thank you.

6 Okay. I'm going to take the matter under
7 advisement, and I'll issue a written decision.

8 Thank you, everybody. Appreciate it.

9 (Proceedings concluded in this matter at 4:37 p.m.)
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C E R T I F I C A T E

I, Erica R. McQuillen, do hereby certify that the preceding pages of typewritten matter are a true, correct, and complete transcription of the digital recording of proceedings in the above-entitled matter.

Dated this 13th day of June, 2018.

s/Erica R. McQuillen
Erica R. McQuillen, RDR, CRR